

HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)	
)	
Application for Certification)	Docket No.
for the Metcalf Energy Center)	99-AFC-3
(Calpine Corporation and)	
Bechtel Enterprises, Inc.))	
_____)	

COYOTE GRANGE HALL
412 MONTEREY ROAD
COYOTE, CALIFORNIA

TUESDAY, MARCH 13, 2001

9:10 a.m.

Reported by:
James Ramos
Contract No. 170-99-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Robert A. Laurie, Commissioner, Presiding Member

William J. Keese, Chairman, Associate Member

Gary Fay, Hearing Officer

STAFF PRESENT

Dick Ratliff

Kerry Willis

Paul C. Richins, Jr.

APPLICANT

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Metcalf Energy Center

John L. Carrier, Senior Project Manager
CH2MHILL

Steve DeYoung
Calpine Corporation/Bechtel Enterprises

INTERVENORS

Scott Scholz
South San Jose.com

Issa Ajlouny

Robert Williams

Elizabeth Cord
Timothy Alton
Santa Teresa Citizens Action Group

ALSO PRESENT

Mollie Dent
City of San Jose

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1 P R O C E E D I N G S

2 9:10 a.m.

3 HEARING OFFICER FAY: Good morning. We
4 are resuming our hearing on the AFC for the
5 Metcalf Energy Center. The subject is local
6 system effects.

7 And before we resume with San Jose's
8 cross-examination of the staff panel I understand
9 that Ms. Cord has someone who would like to make a
10 comment.

11 MS. CORD: What?

12 MR. WILLIAMS: Ms. Cord, you have
13 someone who might like to make a comment?

14 MS. CORD: Oh, yes, yes, I'd like you to
15 meet, this is my son, Michael Cord, and he wanted
16 to make a comment this morning.

17 HEARING OFFICER FAY: Good morning,
18 Michael.

19 PRESIDING MEMBER LAURIE: Good morning,
20 Michael.

21 MR. CORD: Hi, my name is Michael Cord.
22 I'm here today because my mom promised to take me
23 to the Sharks' practice at 10:30 this morning at
24 the Ice Center. The Sharks are my favorite team
25 and I watch all their games, and they just traded

1 some of my favorite players to get some new good
2 players. So I wanted to watch them practice today
3 to see what the new ones are like on the team.

4 And now my mom tells me that I can't go
5 because they have this meeting early in the
6 morning, and they have another one at 2:00 that
7 will go for a long time.

8 So, and if she doesn't come then they
9 could build a power plant, and that wouldn't be
10 good.

11 I just wanted to let you know that I
12 don't think it's fair my mom has to spend over two
13 years telling the reasons why this polluted is not
14 going in our home. I don't know why she keeps
15 having to say it. I'm sure you know why.

16 I don't think you would want it in your
17 home, either. I already have such bad allergies
18 from the air I have to take medicine all the time.
19 I don't know why you have to build it near
20 anyone's home, and I wish you would -- my mom,
21 instead of coming here again.

22 Thanks for your time.

23 MS. CORD: Thank you.

24 HEARING OFFICER FAY: Okay, thank you.

25 PRESIDING MEMBER LAURIE: Thank you,

1 Mr. Cord.

2 HEARING OFFICER FAY: Thank you,
3 Michael. Right, we're going to resume with Ms.
4 Dent's cross-examination of the staff's panel.
5 Whereupon,

6 R. PETER MACKIN
7 was resumed as a witness herein, and having been
8 previously duly sworn, was examined and testified
9 further as follows:

10 MS. DENT: Thank you.

11 CROSS-EXAMINATION - Resumed

12 BY MS. DENT:

13 Q I want to begin by asking staff if they
14 recall the transmission system engineering
15 workshop that was held on January 31, 2000. I
16 have the list of questions and answers from that
17 workshop, and I want to ask specifically if staff
18 still agrees with some of the statements that are
19 shown on that list of question and answers, or if
20 staff's position has changed.

21 I only have one --

22 MR. HARRIS: Molli, is that a document
23 that you have?

24 MS. DENT: Yeah. I only have the one
25 copy. It's the question and answers out of the

1 workshop. I'll be glad to provide it to the
2 witness because I've written the text of the
3 questions down.

4 MR. HARRIS: My question is are you
5 reading from a CEC document or just your notes --

6 MS. DENT: Yeah, well, it says
7 California Energy Commission right on it.

8 MR. HARRIS: Okay. Can you identify it
9 so I can see it? I thought you were talking about
10 your own notes, is all.

11 HEARING OFFICER FAY: Does staff
12 understand what the document is?

13 MS. DENT: I'll give them a copy --

14 MR. MACKIN: Yeah, I know, I remember
15 the document.

16 HEARING OFFICER FAY: All right, fine.
17 Do you need the document before you?

18 (Pause.)

19 BY MS. DENT:

20 Q My first question about that document is
21 does staff still agree that with planned
22 transmission system improvements no lines into the
23 South Bay are expected to be overloaded or
24 congested within the next five years?

25 A No, we don't.

1 Q So there's a change in your position on
2 that? That's changed since January of 2000?

3 A Yes, it has.

4 Q How about the statement on the top of
5 page 7, does staff still agree that south San Jose
6 can expect to receive reliable electricity in the
7 future whether or not the Metcalf Energy Center is
8 built?

9 A I guess the answer would be given enough
10 time the ISO and PG&E can construct adequate
11 transmission facilities, and assuming that we get
12 generation someplace else, then we can get
13 adequate supply for the San Jose area.

14 But that's not to say that the Metcalf
15 Energy Center doesn't improve the situation in any
16 case.

17 Q Thank you. Does staff still agree, the
18 question 8 on the top of page 8, does staff still
19 agree that all of the Metcalf Energy Center
20 project objectives of serving the South Bay could
21 be achieved by supplying power to any of five
22 substations including Metcalf, except for
23 reduction in overload of the Metcalf 500 230 kV
24 transformers?

25 A Which question is this?

1 Q This is the top of page 8, question 8.

2 A Yeah, the question I've got says will
3 building Metcalf in south San Jose eliminate or
4 lessen the potential for brownouts.

5 Q Pardon?

6 A It's talking about brownouts, question
7 8.

8 Q And do you agree that the Metcalf
9 project objectives can be met by supplying power
10 to any of five substations including Metcalf,
11 except for reduction in overload on the Metcalf
12 500 230 kV transformer?

13 A Well, I guess I really can't answer that
14 question because I'm not really clear on what
15 Metcalf's objectives are.

16 Q Hold on just a second, I have to --

17 MR. HARRIS: Can you give us a date on
18 that document? We're trying to find a copy.

19 MS. DENT: It says January 31st up at
20 the top of it.

21 MR. HARRIS: January 31st of 2000?

22 MS. DENT: 2000.

23 BY MS. DENT:

24 Q I'm going to read from the document, I'm
25 going to read from question 12 on the document on

1 page 9. The question is in comments on the Energy
2 Commission Staff's proposed approach for
3 alternative site analysis, Cal-ISO Staff indicated
4 that the project's objectives -- the project
5 objective of serving the South Bay could be
6 achieved by supplying power to any of a total of
7 five substations.

8 In addition to Metcalf they are Monte
9 Vista, Newark, Ravenswood and San Mateo. Is that
10 still the position of staff and the ISO?

11 Do you want to look at the document?

12 A No, I can answer the question. I
13 believe that it's, except for San Mateo, it would
14 still be the position that we could serve south
15 San Jose from those stations.

16 Q Now, the next part of that question 12
17 is please describe any system benefits that are
18 unique to the Metcalf location versus
19 interconnection at the four other substations
20 listed.

21 And the answer to that question is the
22 locations listed above, with the exception of
23 Monte Vista, are not likely to help reduce
24 overload of the Metcalf 500 230 kV transformer.

25 Is that the same transformer that is now

1 planned to be -- a new one's planned to be added.

2 So is that problem being fixed anyway?

3 A That particular problem is being fixed,
4 yes.

5 Q So we have then no other specific
6 benefits unique to the Metcalf location --

7 A No.

8 Q I want to ask another question. Getting
9 back to page 645 of your testimony about local
10 generation, and the need for local generation.

11 And just what constitutes local generation and how
12 much of it is needed.

13 The local area that again that you seem
14 to be studying for local generation purposes was
15 the DeAnza and San Jose divisions, which is a
16 different area than Calpine testified to.

17 But my specific question really relates
18 to Moss Landing. And whether or not you consider
19 Moss Landing to be really a distant generator.

20 A Yes, I do.

21 Q And why is that?

22 A Because the lines from Moss Landing to
23 the Metcalf station, they are over 35 miles away,
24 and one of the benefits of local generation is
25 voltage support. And the Moss Landing Power Plant

1 is not as effective at supporting the Metcalf
2 voltages as generation sited right at Metcalf.

3 Q So your testimony then on page 645 that
4 the need for something closer than Moss Landing is
5 primarily because of voltage support?

6 A Voltage support and transmission
7 overloads.

8 Q Well, now on the transmission overload
9 issue, if I understood it correctly, the
10 transmission overload that occurs on the Moss
11 Landing to Metcalf line is a peak overload
12 problem. Is that accurate?

13 A Which Metcalf to Moss Landing line?

14 Q No, I'm sorry, Moss Landing to Metcalf.

15 A Right, but which one? There's three.

16 Q Well, I understood from Calpine's
17 testimony that there were in different scenarios
18 under peak conditions overloads on all three of
19 them.

20 A I don't believe that's true.

21 Q So your understanding is there's only
22 overload on one of them under peak conditions?

23 A Under normal steady state conditions
24 there are overloads on the 230 kV lines 1 and 2.
25 The 500 kV line is not overloaded.

1 Under contingency conditions for loss of
2 the 500 kV line, then the 230 kV lines, again,
3 overload severely. And the only way to mitigate
4 that, at least right now, is to reduce the
5 generation at Moss Landing.

6 Q And the need to reduce the generation
7 again is related to peak loading conditions,
8 peak -- to peak conditions.

9 A It occurred on the peak. We did not
10 look at off peak or partial peak, so I guess I
11 really can't say.

12 Q Okay, thank you. Now, your analysis, it
13 seemed, focused just specifically on the local
14 system benefits of Metcalf Energy Center. I
15 didn't see in your testimony the comparison of the
16 different alternatives.

17 Did you do your own comparison of the
18 local system benefits of the different
19 alternatives?

20 A Which alternatives? The ones in staff's
21 testimony? One through six?

22 Q Well, did you do it of one through six?

23 A Yes, we did.

24 Q And is that in the alternatives
25 testimony --

1 A Yes, it is.

2 Q -- rather than in the local systems
3 effects testimony?

4 A Yes.

5 Q Okay.

6 A It's --

7 Q And is that the -- those are the only
8 alternatives you looked at local systems effects
9 on?

10 A Yes.

11 Q Did you make any estimate of the minimum
12 size generating capacity that would be needed to
13 provide the local generation that's referenced in
14 your study? Did you make any estimation of
15 whether or not 200, 400, 600, 1800 megawatts, how
16 much local generation was needed to achieve the
17 local system effects that you have identified?

18 A To achieve the local system effects we
19 identified you'd need 600 megawatts.

20 Q Six hundred megawatts, somewhere in what
21 area according to your study?

22 A According to our study it would have to
23 be at Metcalf.

24 Q Now, that's because you only studied
25 Metcalf, you didn't study whether or not 600

1 megawatts at, well, you studied it at six
2 alternative sites, but for example, you didn't
3 study whether or not 600 megawatts at some other
4 site might also achieve local system effects?

5 A Right. We didn't because the other
6 sites, you know, there are other considerations
7 for alternatives which we'll talk about later.
8 And, you know, if there's no room for the power
9 plant, or you can't connect it to the system,
10 there's no point in studying it.

11 Q Right. I'm just trying to get at your
12 local systems effects, and I'm trying to figure
13 out where you've identified -- what area you've
14 identified that this local generation needs to be
15 in.

16 And Calpine said they've identified that
17 the local generation needs to be in the Metcalf
18 natural service area. Have you identified that
19 the local generation needs to be in the DeAnza and
20 San Jose divisions? Or could it be right outside
21 those divisions?

22 A I don't think it really makes any
23 difference. I mean if you look at the map the two
24 areas are almost identical, so --

25 Q Well, I would -- I would really --

1 A -- electrically they're almost
2 identical. And that's the only thing we looked at
3 is the electrical effects.

4 Q Well, the entire Peninsula is in the
5 Metcalf's natural service area and it's not in
6 your service area, so that's --

7 A No, --

8 Q -- geographically a large area, isn't
9 it?

10 A -- no, that's not correct. The entire
11 Peninsula is not in the Metcalf service area,
12 natural service area. It's not. Only a portion
13 of it. And that portion is a very small
14 percentage of the load.

15 Q Looking at page 647 of your testimony is
16 it accurate to say that all of the case studies
17 evaluating local system effects for the project
18 were heavy summer power flow cases?

19 A There were heavy summer power flow
20 cases. There was also for 2002 there was a
21 partial peak case that was looked at.

22 Q And what was that partial peak case?

23 A It was basically the morning of the peak
24 day with high generation in the South Bay to
25 stress the system. It was used as part of the

1 interconnection study for the Metcalf Energy
2 Center.

3 Q So it was a partial peak, but not a
4 complete peak, is that --

5 A Correct.

6 Q Because it was in the morning?

7 A Right.

8 Q And with high generation did you say, in
9 the --

10 A Yes, in the South Bay Area.

11 Q In the South Bay Area. Oh, I want to
12 ask you the same question I asked the Calpine
13 witnesses about the dynamic thermal rating.

14 MR. HARRIS: Can I interrupt just a
15 second. The applicant is Calpine/Bechtel. Please
16 refer to it that way, or applicant.

17 MS. DENT: I'm sorry, what did I say?

18 MR. HARRIS: Just Calpine.

19 MS. DENT: Oh, I'm sorry.

20 MR. HARRIS: It's a Joint Venture.

21 MS. DENT: Okay.

22 MR. HARRIS: Thank you.

23 MS. DENT: Try to remember that.

24 INTERVENOR: Thank you for interrupting.

25 MS. CORD: Yeah, I'd like to spend more

1 time here, that's good.

2 HEARING OFFICER FAY: Applicant is
3 simpler.

4 MS. DENT: I'll try to remember.

5 MR. WILLIAMS: Calpine is more
6 pejorative.

7 BY MS. DENT:

8 Q I would like to ask you a question about
9 the dynamic thermal rating of transmission lines.
10 Do you know whether or not there's been any
11 dynamic thermal rating, any real time testing of
12 the transmission lines into Metcalf substation?

13 A Not into Metcalf substation. Dynamic
14 thermal rating has been done, though.

15 Q And do you know whether or not doing
16 that kind of dynamic thermal rating might provide
17 a better picture of the transmission line
18 overloads that you've testified about?

19 A It might. PG&E did that dynamic thermal
20 rating in the past and they didn't continue with
21 it because the results weren't promising.

22 Q And when was that done?

23 A Early '90s.

24 Q And do you know where it was done?

25 A In Fresno somewhere, I don't know

1 precisely.

2 Q But the technology does exist?

3 A It exists. PG&E chose not to use it.

4 Q On page 646 of your testimony where you
5 talk about future generation resources, could you
6 tell me whether either of the two power plants in
7 Pittsburg are considered in your estimate of
8 future generation resources? Either the one that
9 has been approved, and there's one -- I don't know
10 if they've both been approved, or -- have they
11 been included in your estimate of future resources
12 available to the South Bay?

13 A They were both approved, and they were
14 both included.

15 Q On page 646 at the bottom of the page of
16 your testimony you reference the California-ISO
17 process, request for bid process. And you made a
18 determination. You say at the bottom of that page
19 that potential generation from peaking sources
20 shouldn't be included in analysis due to short-
21 term nature and restricted operating
22 characteristics.

23 Not all peaking resources are short term
24 in nature, are they? Some peaking resources are
25 designed to come on anytime there is a peak need,

1 they are not just temporary.

2 A Well, then if they're on all the time
3 they're not peaking resources.

4 Q Well, could you describe for me then
5 what peaking resources you're talking about
6 rejecting here. Are you talking about rejecting
7 only temporary sources? I guess I'm having
8 trouble with the term short -- I'm having a little
9 trouble with your terminology short term.

10 For example, the peaker project, the
11 Golden Gate peaker project, do you consider that
12 to be a short-term project?

13 A I guess I'm not real familiar with that
14 one. I know it was just -- was it just licensed?
15 No, it didn't get a license, didn't need one.

16 That one, I don't think that one would
17 be considered short term because it was not, I
18 don't believe it was a response to the RFB.

19 So what we considered short term were
20 peaker projects in response to the RFB, which
21 would be a maximum of three years.

22 Q So you weren't looking at projects like
23 the Golden Gate peaker project which would have
24 been a permanent project designed to come on line
25 during peak conditions. You weren't rejecting

1 those kind of projects in this analysis.

2 A No, but at the time we did the analysis
3 there were no peaker projects to include like that
4 in the analysis. Plus some of the benefits that
5 we found in the analysis you could not get from
6 peaker projects. You could get the benefit for
7 reduced transmission overloads on peak, but you
8 wouldn't get the same loss savings, you wouldn't
9 get the same operational flexibility. There's a
10 lot of other benefits you would not get from those
11 projects.

12 MR. RATLIFF: As the Committee knows,
13 the --

14 MS. DENT: I'm going to ask that the --
15 I'm going to object to the lawyer answering the
16 question.

17 HEARING OFFICER FAY: Well, I think were
18 you trying to clarify the state of the record?

19 MR. RATLIFF: Yes. I wanted to ask, I
20 know the Committee's familiar with the facts of
21 that case, but I would ask that you take official
22 notice of the decision in that case, which limits
23 that peaking facility to no more than three years
24 of operation. The Golden Gate permit, yes.

25 HEARING OFFICER FAY: Yeah, that --

1 MS. DENT: You can take judicial notice
2 of any of your decisions.

3 HEARING OFFICER FAY: Obviously we can,
4 and we will. Just for clarification, that was
5 decided last Wednesday and approved by the
6 Commission. And it is limited to three years.
7 However, the applicant can, prior to that time,
8 apply to convert it as part of a permanent
9 facility.

10 MR. AJLOUNY: Isn't that the intentions
11 of the applicant, though?

12 HEARING OFFICER FAY: Issa, --

13 MR. AJLOUNY: Well, you guys are
14 talking --

15 HEARING OFFICER FAY: -- to answer your
16 question, it's not on the record what the
17 intentions of the applicant are. But that's the
18 state of the license.

19 MR. AJLOUNY: Okay.

20 MS. DENT: Let me take a minute to look
21 at my notes. I think I'm done.

22 (Pause.)

23 MS. DENT: Oh, I do have a couple
24 questions about plant reliability.

25 //

1 BY MS. DENT:

2 Q This is one plant, one location. Do you
3 know anything about the fuel availability to the
4 plant? Do you know whether or not the Calpine has
5 its own contract for gas or is merely planning to
6 buy gas from PG&E?

7 MR. RATLIFF: Objection, outside the
8 scope of the testimony.

9 MS. DENT: He's testified on
10 reliability, I think fuel availability is related
11 to reliability.

12 MR. MACKIN: It's not related to
13 transmission reliability at all.

14 BY MS. DENT:

15 Q Well, if you don't have the power you
16 can't transmit it, can you?

17 HEARING OFFICER FAY: It appears to be
18 beyond the scope of the witness' testimony. Do
19 you feel comfortable testifying on that, answering
20 her question?

21 MR. MACKIN: I can answer her question
22 because I don't know. I did not look at fuel
23 reliability and --

24 HEARING OFFICER FAY: Okay, there's the
25 answer.

1 MR. MACKIN: -- I have no idea if
2 Calpine has a contract with anybody for gas.

3 HEARING OFFICER FAY: There's the
4 answer.

5 MS. DENT: Thank you.

6 BY MS. DENT:

7 Q So now in terms of having the plant be
8 available at times of peak demand, do you have any
9 opinion on whether or not competition for natural
10 gas is going to impede the ability of the plant to
11 be available at times of peak demand?

12 MR. RATLIFF: Same objection.

13 MS. DENT: That's a question --

14 MR. RATLIFF: Withdraw the objection.

15 MR. MACKIN: I guess if you ask for my
16 opinion, my opinion is if Calpine is going to
17 spend hundreds of millions of dollars on a plant
18 they're going to make sure that it will run on
19 peak when prices are high.

20 BY MS. DENT:

21 Q Even if there's not enough gas available
22 for residential heating?

23 A There probably won't be a need for
24 residential heating on peak. It will be 110
25 degrees.

1 Q So, your peak problem again, then, let's
2 do it again, the peak problem is hot summer days
3 and that's really the concern that you have?

4 A For the transmission system the peak
5 case in the summer is one of the major problems.
6 It's not the only problem.

7 Q So if there were -- so addressing that
8 peak problem, addressing the problem of those hot
9 summer days is really a critical issue for the
10 transmission system engineering, correct?

11 A It's one of them, yes.

12 Q And is it the most critical issue?

13 A You could say it's the most critical;
14 there's others that are very close. I mean it
15 doesn't matter if the system can meet the peak,
16 but then it has problems on the partial peak or
17 the off peak, the lights still go out. So, you
18 know, you have to meet all the conditions.

19 Q Well, let's go through it. Does the
20 system have problems on off peak?

21 A What part of the system? The whole
22 system or just San Jose?

23 Q You're talking about the Bay -- you're
24 talking about south San Jose here. So, I mean I
25 don't know really what area to use because I'm so

1 confused about what area everybody else is using.

2 But, let's say south San Jose.

3 A I'm not aware of a problem on partial
4 peak or off peak.

5 Q No problem on partial peak or off peak?

6 A I'm not aware of any.

7 Q Okay.

8 A I only did a very minimal study --

9 Q So that again --

10 A -- for those conditions.

11 Q -- it's a peak problem?

12 A The studies identified a peak problem.

13 MS. DENT: I don't have any further
14 questions, thank you.

15 HEARING OFFICER FAY: Okay. Santa
16 Teresa Citizen Action Group, do you have cross-
17 examination of the staff?

18 MS. CORD: Yeah, Mr. Alton's going to
19 take that for us.

20 HEARING OFFICER FAY: Mr. Alton.

21 MR. ALTON: Can I defer -- this point?
22 He seems anxious to start.

23 HEARING OFFICER FAY: Oh, let him go
24 ahead? Okay.

25 MR. WILLIAMS: Mr. Fay, with due

1 respect, I'd appreciate it if you would alternate
2 the order of questioning from time to time. Mr.
3 Ajlouny managed to make everybody mad yesterday,
4 and it's no fun to cross-examination after
5 everybody's mad.

6 (Laughter.)

7 MS. DENT: I'd like to just -- I wanted
8 to ask a brief question for the record.

9 HEARING OFFICER FAY: Thought you
10 concluded your cross-examination?

11 MS. DENT: I'm going to ask you a
12 question, I'm not going to --

13 HEARING OFFICER FAY: All right.

14 MS. DENT: -- ask them a question.

15 Don't worry. Are you going to start the
16 alternatives testimony sometime after 2:00 p.m.,
17 in all deference --

18 HEARING OFFICER FAY: Yes, either at --

19 MS. DENT: -- that's here this morning,
20 I'm going to go away and come back at 2:00 p.m. if
21 you're not going to start alternatives until then.

22 HEARING OFFICER FAY: We intend to start
23 at 2:00 p.m., but you went over the time
24 estimated, and if everybody else does, we may not
25 start right at 2:00 p.m.

1 MS. DENT: That's not my question.

2 PRESIDING MEMBER LAURIE: I -- yes,
3 2:00. And I hate to do this to my best friend in
4 the world, Hearing Officer Fay, but we will start
5 at 2:00 p.m. And we will finish this no later
6 than 1:00 p.m.

7 In regards to Mr. Williams' statement or
8 question, sir, you raised this some hearings ago,
9 and we said yes. Because generally you're at the
10 bottom of the list or somebody's at the bottom of
11 the list, not that anybody makes anybody mad, but
12 the problem is you get less time.

13 And so, yes, we will, to the extent that
14 we have any more to do, we will reverse orders and
15 have --

16 MR. WILLIAMS: I appreciate that.

17 HEARING OFFICER FAY: We can accommodate
18 that right now. We can just flip the order of the
19 remaining parties.

20 Is Mr. Garbett here to ask questions?

21 All right, then we'll go to Mr. Williams and --

22 MR. WILLIAMS: Thank you, sir.

23 MR. AJLOUNY: I like the way you did
24 that.

25 (Laughter.)

1 HEARING OFFICER FAY: But, I think the
2 point --

3 MR. WILLIAMS: Mr. Garbett --

4 HEARING OFFICER FAY: -- is well taken.

5 MR. AJLOUNY: No, that's fine. I am
6 sorry I made everybody mad yesterday. (Laughter.)

7 HEARING OFFICER FAY: Didn't make me
8 mad.

9 CROSS-EXAMINATION

10 BY MR. WILLIAMS:

11 Q My first question is for Mr. Mackin, is
12 that your name?

13 A Yes.

14 Q Thank you. Have you done any studies of
15 the East Altamont Pass Power Plant that has been
16 announced but not yet filed by Calpine
17 Enterprises?

18 A No, I haven't.

19 Q Has you or any member of Cal-ISO?

20 A I don't believe so.

21 Q I would appreciate it if you would check
22 that. The website, when I checked this morning,
23 said they would make an AFC application. Is it
24 common practice to file for an AFC without any
25 contact with Cal-ISO?

1 A There's a difference between contact and
2 doing studies.

3 Q So your testimony is then that they have
4 contacted you?

5 A Absolutely.

6 Q Are you aware then that they plan a
7 power plant near the Tesla substation?

8 A It's near Tracy, but, yes, we're aware
9 of it.

10 Q How far is it from the Tesla
11 substation?

12 A About 12 miles.

13 Q What would be the nature of electrical
14 or local system differences between siting in
15 Tracy and siting near Tesla?

16 A I'm not sure that there really are that
17 many, although Tracy feeds more to the Central
18 Valley than Tesla. Tesla feeds more to the Bay
19 Area.

20 So you might have more affects in the
21 Central Valley with a Tracy location than you
22 would with Tesla.

23 Q Could you turn to one of the maps in the
24 FSA or in the applicant's testimony that would
25 show the location of that plant? I'd direct your

1 attention, for example, to page 708, or --

2 HEARING OFFICER FAY: 708 of what
3 document?

4 MR. MACKIN: Can I use that one, the
5 chart?

6 BY MR. WILLIAMS:

7 Q Of the FSA, or you're welcome to come
8 look over my shoulder -- yeah, the board would be
9 perfect.

10 HEARING OFFICER FAY: Mr. Mackin, you'll
11 need a microphone, and please be self conscious
12 about the fact that we'll be reading this later
13 from the transcript. And if you say here and
14 there, we won't know what you mean.

15 So please reference the document you're
16 using as a map.

17 MR. MACKIN: Okay, I'm referring to the
18 commonwealth associates map, it's from applicant's
19 group 3C testimony, appendix B.

20 And, okay, so now the question was?

21 BY MR. WILLIAMS:

22 Q Where is -- what's the approximate
23 location --

24 HEARING OFFICER FAY: Mr. Williams, you
25 have to stay on mike, otherwise --

1 BY MR. WILLIAMS:

2 Q -- of the East Altamont Pass?

3 HEARING OFFICER FAY: Your question is
4 being lost. You need to say it on mike.

5 MR. WILLIAMS: I was trying to see where
6 he was pointing to on the map.

7 BY MR. WILLIAMS:

8 Q The question, again, is what is the
9 approximate location of the East Altamont Plant
10 near Tracy, and what's the location with respect
11 to the Tessla main substation.

12 A Okay, on the map Tessla, let's see, it's
13 hard to describe. I guess it's in the northeast
14 quadrant and Tracy is almost directly north
15 approximately -- there's no scale of miles, but I
16 still think it's about 12 miles directly north.
17 And the power plant is supposed to be located
18 right adjacent to the Tracy substation.

19 MR. WILLIAMS: Thank you very much, I
20 appreciate that.

21 MR. AJLOUNY: Trying to make up for
22 yesterday.

23 BY MR. WILLIAMS:

24 Q I'd next ask that you go ahead and sit
25 down, if it's more convenient. I want to direct

1 your attention to your five-year reliability must
2 run technical study of the ISO controlled grid
3 apparently authored by yourself and Ron Calvert of
4 grid planning.

5 It appears under the applicant's
6 appendix X. First I would direct your attention
7 to page 521. This illustrates, forgive me if I'm
8 going too fast, page 521, I'll wait till you find
9 it. Under appendix X, it's about an inch from the
10 bottom.

11 Page 521 shows a three-color chart that
12 shows peak loads marching up from about 7800 to
13 9500 between the years '97 and 2003.

14 A Yeah, I'm still having trouble finding
15 the darn thing. Okay, what page?

16 Q 5-21.

17 A Okay.

18 Q So, I use that to refresh your memory
19 and say isn't it correct that there's between 7800
20 and 9400 megawatts of peak demand in the Greater
21 Bay Area?

22 A No, it's not.

23 Q Could you state the correct numbers
24 then?

25 A What? The Bay Area peak demand? Last

1 year the Bay Area peak demand was over 9200
2 megawatts.

3 Q I see, so it's your testimony that this
4 figure is now incorrect?

5 A Yes, it is, it's three years old.

6 Q Well, thank you. Let me direct your
7 attention now to page, it's about a quarter of an
8 inch further down to appendix 5, page 5-4. This
9 is a reference to the year 2000 Greater Bay Area
10 generation.

11 And this now is in the 2000 reliability
12 must run technical study. It apparently is
13 updated to the year 2000?

14 A Okay, now, which page is that? Where is
15 it?

16 Q Well, I want to direct your attention to
17 page 5-4 in appendix 5. It shows the year 2000
18 Greater Bay Area reserve must run.

19 A Okay. I see the page.

20 Q Thank you. Now, this is intended to get
21 at an earlier question, here you indicate that
22 Moss Landing is a boundary RMR plant.

23 A Yeah.

24 Q Wouldn't that imply then that it's part
25 of the local grid in the same sense that other

1 plants on the boundary are part of the grid?

2 A No.

3 Q Why is that?

4 A It's outside the Bay Area, that's why
5 it's a boundary RMR plant. It provides minimal
6 voltage support for the Greater Bay Area. And the
7 reason it's RMR is because there's nothing else to
8 provide that voltage support.

9 So, even though it's highly ineffective,
10 it's still RMR because we have nothing else.

11 Q Now, what is the reason for showing that
12 as a 1500 megawatt unit? Is that because this is
13 the year 2000 and the future expansion would show
14 that as 2500?

15 A That's the 2000 -- I believe you said
16 it's 2000 study, so it's for the year, it would be
17 for the year probably 2001. So it's only going to
18 show the capacity that's in existence, or that
19 would be in service for the year that's being
20 studied.

21 Q I see. Now, the consultants to the
22 applicant didn't know the load demand in Santa
23 Clara and the Peninsula. Do you believe that the
24 tables in this report provide an approximately
25 accurate estimate of the load demand of Santa

1 Clara and the Peninsula subdivisions?

2 A I would say it's not as accurate as it
3 could be because it's -- now this is the one
4 that's August 19, '99?

5 Q No, this is the one that's 2000.

6 A Well, the date at the bottom of the page
7 is August 19, '99, or is it different?

8 Q Generally speaking it's -- yes, August
9 19, 1999.

10 A Okay, so that's going to be based on a
11 1998 load forecast. So I'd say no, it's highly --
12 the load forecast is not right.

13 Q So if I go to a later page in the same
14 report now, appendix 5, final draft updated April
15 6th of the year 2000; this is following page 5-15.

16 A Now which page are we referring to?

17 Q Well, so now we see that this has been
18 updated to April 6th of the year 2000 --

19 A Right.

20 Q -- according to the header at the bottom
21 of the page?

22 A Yes.

23 Q The header indicates H.I.Rogers. Is he
24 an associate of yours?

25 A Yeah, till Friday.

1 Q And he quit?

2 A He retired.

3 Q Thank you. Now I notice that Moss
4 Landing is still listed as an RMR plant in 2001
5 and 2003. This is on page 5-4.

6 And on page 5-5 it's still listed as --

7 A Well, I need to correct that. On page
8 5-4 what that lists is resources modeled for RMR
9 analysis. It does not list RMR units. You're
10 talking about page 5, correct, or page 5-4?

11 Q Yes.

12 A Yeah.

13 Q Then I direct your attention to 5-5. Is
14 that --

15 A Right, okay.

16 Q Now doesn't that indicate that Moss
17 Landing is an RMR plant?

18 A I believe, now, again, you know, you're
19 asking me about a study that I didn't do.

20 Q You're the representative of the Cal-
21 ISO, though, --

22 A Yeah, but I can't know everything.

23 Q Oh.

24 MS. CORD: Oh, come on, Peter, we're
25 counting on you.

1 (Laughter.)

2 MR. AJLOUNY: It's in your testimony.

3 MR. MACKIN: I guess what I will --
4 well, actually, no, it can't be because you'll
5 notice SMUD geothermal is listed as external
6 boundary RMR generation, but SMUD geothermal is
7 not an RMR unit.

8 Because those units are under -- they do
9 not have RMR contracts. So I believe what this
10 table --

11 BY MR. WILLIAMS:

12 Q Well, the footnote says --

13 HEARING OFFICER FAY: Excuse me, Mr.
14 Williams, let him finish the answer.

15 MR. WILLIAMS: I understand, yeah.

16 MR. MACKIN: So, I would guess that the
17 heading for units that are RMR the rating is the
18 RMR contract rating, but for other units which are
19 included in the column but are not really RMR
20 units it's probably their modeled maximum
21 generation.

22 And Moss Landing, I'm trying to
23 remember, I believe in 2000 I think we eliminated
24 one unit, and then I guess I really can't answer
25 the question about RMR on Moss Landing because I

1 don't remember.

2 BY MR. WILLIAMS:

3 Q Well, thank you. Let me direct your
4 attention now back to the local system effects,
5 FSA, page 675 which faces the figure local system
6 effects, and it shows the location of several
7 generation facilities.

8 I'm referring to this figure here.

9 A Okay.

10 Q Are you aware that the Mayor of San Jose
11 has arranged for a potential expansion at the
12 Gilroy cogeneration plant shown as a diamond on
13 this diagram?

14 A No, I'm not.

15 Q Okay. Let me direct your attention to
16 the figure that shows the U.S. Dataport facility,
17 which is -- page -- it's at page 704, opposite
18 page 704 is a figure showing the first of the
19 alternate sites.

20 Are you aware that there is a, and the
21 real page that I'm now interested in is page 713,
22 it's opposite page 712, it is a figure that shows
23 the Selkirk property --

24 A You're talking the map that's right
25 across from page 704?

1 Q No. Now 712.

2 A 712. There's no map. There's a table.

3 Q My copy of the FSA has alternatives

4 figure 6.

5 A Okay, I've found it.

6 Q Have you done any studies of power plant

7 expansions at the U.S. Dataport proposed sites, or

8 locations in this general area alternate two or

9 alternate one?

10 A What size?

11 Q Either of 50 megawatt or of 250

12 megawatt?

13 A I believe PG&E did an interconnection

14 study for the 49 megawatt plant. I didn't review

15 it, though, but I'm aware of it.

16 Q How big is the grid planning staff at

17 the Cal-ISO?

18 A We have 15 people.

19 Q I see. Are you the manager of the unit?

20 A No, I'm just one of the grunts.

21 Q Do you believe that the potential

22 addition of 250 megawatts at the alternate one

23 location and the addition of 1100 megawatts at the

24 Tracy location, the so-called East Altamont Pass

25 unit, would have a significant effect on your

1 reliability conclusions?

2 A We looked at 600 megawatts at
3 alternative one. I don't believe 1100 megawatts
4 at the Tracy location would make any difference
5 one way or another to the conclusions or the
6 results we got for alternative one.

7 And then we can talk about alternative
8 one. I don't know if we want to do it now or
9 during alternatives.

10 Q Well, briefly, but what is your comment,
11 sir?

12 A Well, I guess I rambled on so long I
13 forgot the question. What exactly was the
14 question?

15 Q Well, the question was have you done any
16 studies of 250 megawatts at alternate one, and I
17 took your answer to be well, we've studied 600,
18 so--

19 A So the answer for 250 is no, we did not.

20 Q Yeah. Now, what were the benefits of
21 600 megawatts at the alternative one site?

22 A We found that there were reduced system
23 losses; there were line overload reductions.
24 There were other system benefits that were similar
25 to the Metcalf site, not in the same area, but

1 similar types of benefits.

2 Q Okay, next I'd like to move back to the
3 correction of the testimony that was handed out
4 yesterday. It's dated March 12, 2001. It
5 corrects tables 3 and table 4 of the LSE.

6 A Okay.

7 Q When I look at table 3 I see such small
8 changes. Wouldn't it be fair to interpret table 3
9 as no significant effects?

10 A What do you mean by small changes?

11 Q Well, for --

12 A You mean small changes between the old
13 table and the new table, or --

14 Q Or the small number of aggregate
15 effects?

16 A No, it would not be correct. Those are
17 significant changes. There's six lines where
18 overloads are completely eliminated. That's very
19 significant.

20 Q Well, what about in table 3 where the
21 number, the last column, the number of overloads
22 worsen with MEC? I see that in the year 2000
23 there are four other worsened; by the year 2005
24 there are five that are worsened. Why are
25 overloads worsened by the addition of MEC?

1 A If you have, whenever you add generation
2 to the system you change the way the power flows
3 on the network. And so when you add 600 megawatts
4 at Metcalf there are some facilities that are
5 already overloaded that because you add 600
6 megawatts right at Metcalf you get a little more
7 push on those facilities, and their overloads
8 increase slightly.

9 Q So the reason I tried to draw the
10 conclusion the number of overloads that were
11 eliminated were in those same two years 6 and 8;
12 but the number that were worsened was 4 and 5.

13 So it seems to me to be very close to a
14 push.

15 A Except that the overloads worsened are
16 already PG&E projects that are bound to be fixed.
17 And the overloads eliminated are potential
18 projects that PG&E doesn't have to build.

19 So you're not saving anything when --
20 you know, you're not really creating a significant
21 change when you worsen an overload, because you're
22 already going to have to fix it.

23 But if you eliminate an overload you
24 have a potential for significant savings.

25 Q Okay, so the main argument then is the 6

1 and 8 overload that would not require transmission
2 projects. Is it your testimony that a
3 transmission project would correct those
4 overloads?

5 A Yeah.

6 Q Yeah. Thank you. There's one other
7 question I have to ask that has to do with the
8 credibility of the ISO. I don't mean to be
9 offensive to you, personally.

10 I need to ask why -- is it true that the
11 board of the ISO was replaced --

12 MR. RATLIFF: Objection, outside the
13 scope of the testimony.

14 MR. WILLIAMS: It goes to the
15 credibility of Mr. Winters and to the testimony of
16 the ISO on grid expansion.

17 HEARING OFFICER FAY: Well, I think
18 first you'd have to establish that there's some
19 connection between the board's replacement and
20 testimony that the ISO has offered through Mr.
21 Mackin.

22 BY MR. WILLIAMS:

23 Q What was the reason for the board
24 replacement, Mr. Mackin?

25 MR. RATLIFF: Same objection.

1 HEARING OFFICER FAY: Sustained. You've
2 got to establish a foundation. It's not at all
3 clear to me that there's any relevance between the
4 board change and the staff's testimony.

5 MR. WILLIAMS: Okay, let me introduce,
6 then, the testimony of the Federal Energy
7 Regulatory Commission in docket EL- --

8 MR. RATLIFF: Objection, this is not
9 time for testimony, it's time for cross-
10 examination.

11 MR. AJLOUNY: Trying to tie it in.

12 MR. WILLIAMS: I'm -- can I ask you to
13 take judicial notice of the FERC order, the FERC
14 draft order --

15 HEARING OFFICER FAY: Not if you don't
16 tell me what the purpose is.

17 MR. WILLIAMS: The purpose is to address
18 the credibility of the Cal-ISO with respect --
19 it's my suggestion that their testimony in this
20 entire proceeding has been biased in favor of the
21 applicant.

22 The Federal Energy Regulatory Commission
23 found that to be the case, and asked that the
24 board of directors be replaced. And it's stated
25 in these two proceedings.

1 They've been submitted to the docket,
2 but they were before your time.

3 HEARING OFFICER FAY: Okay, but all that
4 is irrelevant unless you establish that Mr. Mackin
5 is part of the board of ISO. And my understanding
6 is he represents the staff.

7 MR. WILLIAMS: Well, my understanding is
8 that in contrast with the CEC, the staff of the
9 ISO is a line organization that takes orders from
10 the president.

11 HEARING OFFICER FAY: Why don't you ask
12 him how it works?

13 MR. AJLOUNY: Well, that's how we --

14 MR. WILLIAMS: Okay.

15 BY MR. WILLIAMS:

16 Q Could you describe the structure of the
17 organization? Do you take orders from Mr. Winter
18 through your grid planning superiors? Could you
19 briefly outline that?

20 A If Mr. Winter tells my supervisor that I
21 need to do something, then, yeah, I do it. But he
22 does not tell me what to conclude or what the
23 analysis will show. He can tell me what to study,
24 but he can't tell me what my answers are going to
25 be.

1 Q Now, Mr. Winter has personally submitted
2 letters in this proceeding, is that correct?

3 A I believe so.

4 Q In particular I direct your attention to
5 page 661 where Winter to Commissioners Laurie and
6 Keese, September 1st, is cited, is that correct?

7 HEARING OFFICER FAY: Well, if it's been
8 filed it's part of the record, whether he knows
9 that or not.

10 MR. MACKIN: Right, yes, that letter,
11 um-hum.

12 BY MR. WILLIAMS:

13 Q Okay. Now I find Mr. Winter's testimony
14 in the FSA, but I find no reference to your
15 October 11th or thereabouts submittal in this
16 proceeding.

17 So I have to ask either you or a member
18 of the CEC Staff, was Mr. Mackin's October
19 submittal included in preparing the FSA?

20 MR. RATLIFF: I don't understand the
21 question. Could you clarify?

22 BY MR. WILLIAMS:

23 Q Let me ask again. Where -- I'm trying
24 to shift now from Winter to Mackin -- where is
25 your -- forgive me, I looked for quite awhile last

1 night and could not find your October 11th
2 letter --

3 MR. RATLIFF: Are you talking about the
4 transmission system engineering testimony?

5 MR. WILLIAMS: Yes, the transmission
6 system engineering testimony and the --

7 MR. RATLIFF: We're now in a
8 different --

9 HEARING OFFICER FAY: Yes, Mr. Williams,
10 that was concluded yesterday. That's a different
11 subject area. And that was concluded yesterday.
12 We're on local system effects now.

13 MR. WILLIAMS: So it doesn't bear on
14 this local system effect --

15 MR. MACKIN: That testimony was not --
16 had nothing to do with local system effects.

17 MR. WILLIAMS: Okay, forgive me.
18 Because I couldn't find it I didn't know what it
19 had to address.

20 Okay, it appears to me that I have
21 talked for 25 minutes. Let me just consult my
22 notes.

23 (Pause.)

24 MR. WILLIAMS: Forgive me, I do have to
25 pursue one additional area.

1 BY MR. WILLIAMS:

2 Q I wanted to make sure I understood your
3 testimony yesterday with respect to 60/40 split
4 between in-area generation and outside-of-the-area
5 generation.

6 My recollection of your testimony is
7 that you said approximately 40 percent of the
8 generation for particular areas ideally would be
9 within the area, is that -- could you refresh my
10 memory on that?

11 A I said -- I forgot your question
12 already, but what I said was 40 percent of the
13 load could be served by internal generation; and
14 60 percent, up to 60 percent imported from
15 outside.

16 Q Isn't it true that the Greater Bay Area,
17 then, is meeting that criterion at this point in
18 time?

19 A The Greater Bay Area meets that
20 criteria, it violates others, but, yeah, it meets
21 that one. That's actually not a criteria, though,
22 I said that was a rule of thumb.

23 Q I appreciate that. Isn't it true that
24 that rule of thumb will be substantially exceeded
25 by 2005 if the planned generation in this area is

1 constructed?

2 A You mean there will be more than 40
3 percent internal generation? Yes.

4 MR. WILLIAMS: Thank you, that's all I
5 need.

6 HEARING OFFICER FAY: Thank you, Mr.
7 Williams. Mr. Ajlouny.

8 MR. AJLOUNY: Yes. I didn't know I was
9 going to be next.

10 CROSS-EXAMINATION

11 BY MR. AJLOUNY:

12 Q Mr. Mackin, I just heard recently --
13 well, let me ask the question my way, I guess.

14 Are you aware of the recent announcement
15 of a new power plant near the Gilroy Power Plant
16 that exists today, from the Mayor of Gilroy?

17 A I'm not aware of that, no.

18 Q Are you aware of the announcement this
19 morning in The Mercury News that by this summer
20 there will be a 50 to a 200 megawatt peaker power
21 plant at that location?

22 A I didn't read The Mercury News this
23 morning.

24 Q Okay. Are you aware of any
25 interconnection study done by PG&E or any request

1 or rumblings of that for that location?

2 A There are interconnection requests that
3 we get that are confidential that I can't reveal.
4 So, if there was one, or wasn't one, I really
5 couldn't say.

6 The only thing I can discuss are power
7 plants that are publicly announced.

8 Q So, I guess -- can anyone help him in
9 the area of knowing that the Gilroy has been
10 publicly announced?

11 A I don't know if the Gilroy's been
12 publicly announced.

13 Q Okay. Well, we'll keep on going. Are
14 you aware of The San Jose Business Journal story
15 that came out last Friday and Ken Abreu's
16 statement about if a power plant was built in
17 Gilroy it would be anywhere from 75 to 125
18 megawatts without building new lines?

19 A No, I'm not.

20 Q Are you familiar with the recent
21 announcement of the Seventh and Tully in the San
22 Jose location, the 125 megawatt power plant that
23 was announced by the Mayor a couple weeks ago?

24 A I'm sorry, the what plant?

25 Q It's at Seventh and Tully, it's in

1 San Jose. It's near the fairgrounds.

2 A No, I'm not aware of that.

3 Q Spartan Power?

4 A No, I'm not aware of that. But you've
5 got to remember that power plants announced by
6 press release are far from certain.

7 Q Well, usually when it gets to press
8 release I would think you'd have an
9 interconnection study --

10 A Not necessarily.

11 Q Okay. No problem. So you know nothing
12 about the 125 megawatt plant of Spartan?

13 A I personally know nothing.

14 Q Okay. Are you aware of the possibility
15 of the City of Santa Clara building more
16 generation at existing power plant locations, like
17 maybe taking a 50 megawatt power plant and
18 increasing it to -- 80 more, so it's 130
19 megawatts?

20 A I've heard that they were discussing
21 that. I don't know the precise numbers.

22 Q Okay. Well, that was just one of them.
23 I think they have maybe half a dozen of them or
24 so, a number of them?

25 A Yeah, and that would barely meet their

1 load growth.

2 Q Okay. Do you agree that north San Jose
3 could handle at least 275 megawatts at the new
4 substation that most likely will be approved
5 called Los Esteros? And that's alternates one and
6 two.

7 A Right. That can handle how much?

8 Q At least 275.

9 A I would think they could probably handle
10 600, because that's what we looked at.

11 Q Great. Good. So I get to my number
12 seven question. Hypothetically or reality,
13 because I thought you knew about these other power
14 plants, so I'll use hypothetically to keep it from
15 objection.

16 Let's just say hypothetically the four
17 locations we just talked about came up, you know,
18 let's say 100 in Gilroy, 125 in Spartan, 100 maybe
19 in Santa Clara and 275 in north San Jose,
20 alternates one and two, adding at least 600
21 megawatts.

22 That hypothetical that we just, you
23 know, all those locations, I want you to keep that
24 in mind because I want to go through a number of
25 questions. Trying to do a better job that I did

1 yesterday with the applicant.

2 A Okay, well, you have to help me out
3 because I don't know where Spartan is.

4 Q Spartan is right near the fairgrounds.

5 A Okay, but I don't know where the
6 fairgrounds are.

7 Q Okay. It's on --

8 HEARING OFFICER FAY: Do you know the
9 nearest substation, that would help him. He's
10 familiar with the electrical system.

11 MR. AJLOUNY: Okay.

12 BY MR. AJLOUNY:

13 Q I know it's on a 115 kV line --

14 MS. CORD: Jennings.

15 BY MR. AJLOUNY:

16 Q Jennings, thank you. It's good when we
17 have a team here, appreciate it.

18 MR. ALTON: No, that should be Center --

19 MS. CORD: Center --

20 MR. AJLOUNY: Center?

21 MS. CORD: Center.

22 (Parties speaking simultaneously.)

23 MR. MACKIN: Okay, I know about where
24 that is.

25 //

1 BY MR. AJLOUNY:

2 Q Okay. So in your mind you probably can
3 think that 125 would be reasonable to put there?
4 I know you're an expert and you got to do a study,
5 but the top of your head, do you think maybe 125
6 would work there?

7 A You know, I hate to say this, but yeah,
8 we'd have to do a study. The top of my head,
9 though, you know, for what it's worth, which is
10 not much, it probably would work.

11 Q Okay. Well, I just happen to be
12 involved, or understand that project, and they're
13 looking to be a peaker and they're meeting with
14 the Commission Thursday on possibly a peaker of
15 that much. So I imagine some studies have been
16 done with the announcements in the paper and all
17 the involvement and the excitement in the area.

18 HEARING OFFICER FAY: Is that a
19 question?

20 MR. AJLOUNY: Yeah, well, I'm leading to
21 that, helping him feel more comfortable with his
22 answer on top of the head. So that wasn't a
23 question, I take it back.

24 Going -- oh, no, that's me again. Sorry
25 about that. I always do that, don't I?

1 BY MR. AJLOUNY:

2 Q So I want to go through real quickly, if
3 we could, Mr. Mackin, if we could, I'm hoping now
4 that you have those four locations in mind and the
5 great expert that you are in understanding the
6 grid, I want to go through seven areas.

7 And I'll start with reduction in system
8 losses. Which do you think would be better, the
9 scenario, the hypothetical, or Metcalf?

10 A Well, I guess I really couldn't say
11 which is better. I would say the odds are pretty
12 good they'd be about equal.

13 Q Now we heard testimony, and I think it
14 was by yourself, that the closer the load to the
15 power plant the less loss.

16 A Right.

17 Q Okay. Would you think if you had more
18 power plants circle the City, would assume that
19 that scenario would be closer to the loads?

20 A Well, it depends, because you know
21 you're talking about in Santa Clara, you know,
22 really the center location, you know, I'm not sure
23 which way the power flows on those lines. It
24 could be that it may not make -- it would reduce
25 the losses, but it may not be any more effective

1 than Metcalf.

2 You know, to make a quantitative, you
3 know, this is better than that, you really need a
4 study. To say qualitatively I think it's about
5 the same, I could say that off the top of my head.

6 Q Yeah, well, okay, but I wanted to focus
7 just on system losses.

8 A Okay.

9 Q So just let's focus again on system
10 losses on that hypothetical versus Metcalf,
11 couldn't you assume, or wouldn't it be reasonable
12 as an expert that you are, that the losses would
13 probably be less or maybe even significantly less
14 than Metcalf?

15 A I wouldn't want to say that because
16 again, you know, not -- just looking at the map
17 and not looking at the model, you know, until you
18 do the study and you say, you know, what flows are
19 you actually displacing on what lines to make a
20 statement that one is, you know, better than
21 another is really difficult.

22 And so I, you know, because, you know,
23 I'm providing expert testimony here, I don't want
24 to say something that I'm not sure of, okay. So,
25 to say it's approximately the same I think is a

1 fair assessment. To try to say one's better than
2 the other, I really don't think we can do that
3 without a study.

4 Q If you had to bet on it, would you bet
5 on it?

6 A I wouldn't bet on it.

7 Q Okay. All right, let's go to the next
8 one. Improved outage performance. Just the same
9 thing, hypothetical versus Metcalf.

10 A I think each one would have benefits.
11 One may be, provide different benefits than the
12 other. That distributed generation scenario would
13 not be as effective at relieving Metcalf problems,
14 specifically the Metcalf transformer problem or
15 the two line outage of Metcalf-Moss Landing,
16 Metcalf-Tessla.

17 But they might help other overloads on
18 underlying system. So they could both have their
19 own unique benefits.

20 Q The transformer you just mentioned at
21 Metcalf, is that the third transformer -- or is
22 the third transformer that's already been approved
23 going to take care of that problem that you just
24 mentioned?

25 A The transformer problem, yeah; not --

1 Q Okay, so that wasn't really a fair
2 response then. The transformer problem is going
3 to be corrected by that third transformer?

4 A Well, as I stated yesterday, the
5 project's been approved by the ISO Board; it has
6 not been approved by PG&E as far as funding. So,
7 it's not a completely assured project.

8 Q But you don't have any reason to believe
9 that it won't be, do you?

10 A It's \$25 million additional expense, and
11 PG&E is kind of in trouble right now, so I
12 wouldn't want to bet on it at this point. I'd
13 say, you know, wait and see. If they approve
14 it --

15 Q When do you expect that to be approved?

16 A I really don't know. I heard, and this
17 is hearsay, that sometime this month it's going to
18 the management committee at PG&E.

19 Q Okay.

20 MR. AJLOUNY: So, just for the record is
21 there any way to get that entered after the
22 hearings are closed, like you know, the results of
23 that transformer going in or not?

24 How would we do that? I do it in my
25 brief, I guess, huh?

1 HEARING OFFICER FAY: In your brief you
2 can cite an official decision of a body, and you
3 can ask that the Commission take notice of it.

4 MR. AJLOUNY: Okay.

5 BY MR. AJLOUNY:

6 Q Okay, --

7 A But, Issa, --

8 Q Yes.

9 A -- even though you didn't ask the
10 question, it may be difficult to find out if they
11 approve it, because it's not going to be publicly
12 announced. You know, it's not --

13 Q Oh.

14 A Their board meetings are not public
15 meetings, so.

16 Q Well, maybe they might be now if they
17 got a new board?

18 A Well, no, that's PG&E --

19 Q Oh, that's PG&E, I'm sorry.

20 A This is PG&E.

21 Q Brain check, sorry about that. All
22 right, back to improved outage performance. Would
23 you say that the performance would be better in
24 just the area of I think you guys call it forced
25 outages, in just that area, forced outages, would

1 you think four power plants around the City versus
2 one, if one goes down you lose 600, but if one
3 goes down out of the four you lose a fourth or so.

4 So, would one assume that improved
5 outage performance in that one area would be
6 better to have four versus --

7 A Well, but okay, you have to remember
8 with Metcalf it's three, it's two on one combined
9 cycle, so the single outage of a generator at
10 Metcalf is basically going to cut it in half, so
11 it's not the same as losing the whole thing.

12 Q But again, that's where the source --

13 A Right, but you have, as you mentioned,
14 if you had four versus two, which is what Metcalf
15 is, the impact to the single generator outage
16 would be less, but that doesn't mean that it would
17 be any better because if the system's designed for
18 both, then the system performance is the same.

19 Q I guess I want to use -- I want to think
20 of being in the computer field, when we talk
21 forced outages, there could be a forced outage
22 that affects the whole power plant or just one
23 generator.

24 So, I'm talking about an outage maybe
25 let's say running out of natural gas, or someone

1 cuts the line.

2 A Okay, for Metcalf you'd have to cut both
3 lines, or you'd have to eliminate -- it's actually
4 coming up into two separate bays in the
5 substation.

6 So, to lose the whole plant is a highly
7 unlikely scenario.

8 Q So, a hazardous spill or some emergency
9 like that.

10 A Okay, when you're getting into that kind
11 of situation, that's a little beyond my area of
12 expertise.

13 Q I guess I'm trying to get to the point
14 if there's a catastrophic type of error in that
15 power plant and it makes it all shut down versus
16 one happening at one of the four power plants,
17 we'd be better off with the four versus one.

18 A Well, yeah, I mean the only credible
19 contingency I can think of that might take out the
20 whole plant, and that would be -- it would be
21 something you'd have to --

22 Q But, wait a minute, I thought you
23 weren't an expert --

24 HEARING OFFICER FAY: You've got to let
25 him answer the question.

1 MR. AJLOUNY: Well, he just said he
2 wasn't an expert at the --

3 MR. MACKIN: Well, if you don't want the
4 answer, I mean -- it might help you.

5 MR. AJLOUNY: I just want --

6 HEARING OFFICER FAY: I think you'd
7 better let him answer.

8 BY MR. AJLOUNY:

9 Q Fine.

10 A The only credible contingency that I can
11 think of would be if somehow the gasline got cut.
12 And it's an underground line, I don't know how
13 that would happen, but that's the only way I can
14 see taking the whole plant out.

15 Q And I guess the point I want to make is
16 one, if the whole thing goes down versus one of
17 the four goes down, common sense tells me we'd be
18 better off in San Jose to have the four versus the
19 one.

20 That's all I want to hear you do, is see
21 if you agree with that.

22 A If you're looking at supply adequacy for
23 the whole state or for the whole Bay Area, if you
24 have distributed generation you're outage
25 probability of any unit, since they're about the

1 same, you're going to have more generation on line
2 at any one time.

3 Now, whether that's truly better is
4 difficult to say without doing a study.

5 Q Okay.

6 A I mean it could be, it might not be.

7 Q I guess common sense tells me otherwise.
8 Increased real and reactive power, same scenario.

9 A Well, you mean, if the power plants are
10 the same size, the sum of the four is the same as
11 600, you're getting the same power.

12 And reactive power is probably similar,
13 but again, it's not in the same location. So,
14 for, in this particular case, without actually
15 doing an analysis, that one would be a little
16 tougher to call.

17 Q Okay. Increased reactive margin, the
18 VAR?

19 A Right, that's what I'm talking about,
20 the VARs, I'm sorry. I skipped power and went to
21 VARs.

22 Q Well, if you're talking about the VAR,
23 and what I know about VAR, wouldn't you think the
24 VAR would be a lot better being closer to the
25 loads, the four plants?

1 A Well, it depends on where the reactive
2 deficiency is. If the reactive deficiency is at
3 Metcalf rather than distributed out along the
4 lower voltage system, then it would be more
5 effective to be at Metcalf rather than distributed
6 out along the system.

7 Q Well, I was intending to ask this
8 question later, but I'll throw it out now and
9 maybe get detail later.

10 Wouldn't you say that most of the --
11 where would you say the center load would be in
12 this what you call South Bay Area, DeAnza and San
13 Jose?

14 A The center?

15 Q The center of the load. Where would you
16 think the majority of the load would be? South
17 San Jose? North San Jose where all the
18 corporations are, what we call Silicon Valley
19 today?

20 A You know, I really don't know.

21 Q Okay, well, increased real and reactive
22 power, that's what I meant earlier. Okay. That's
23 not considered VAR, right?

24 A I'm sorry? Reactive power is VARs and
25 real power is megawatts, real power.

1 Q Okay. Well, I notice that -- never
2 mind, then.

3 Increased real power, I guess it would
4 be the same if the same megawatts?

5 A You would have the same megawatts to
6 serve load. Now, whether it's as effective or not
7 depends on the location.

8 Q But being closer to the loads, would you
9 think there'd be less loss?

10 A Well, I think I answered that question
11 already. I said I can't answer it specifically.

12 Q Okay, I missed it then. Additional
13 operational flexibility.

14 A It would depend on what the units were.
15 If they were peaker units you wouldn't have the
16 same operational flexibility. If they were
17 smaller or combined cycle, you might have similar
18 benefits.

19 Q Okay, and I was talking about non
20 peaker.

21 A Okay. And, again, I don't know, you
22 know, Issa, if this is a hypothetical question
23 with small combined cycle then the operational
24 flexibility is probably similar.

25 Q Okay, what about RMR costs?

1 A It would probably be similar.

2 Q What about potential deferral or
3 relocation of capital facilities?

4 A That one's a little more difficult
5 because, again, it's location specific.

6 Q I understand. But just recapping on
7 those seven areas that we talked about, could you
8 safely say that most likely that this hypothetical
9 would not be worse or significantly worse than the
10 one project at Metcalf? Is that a safe statement?

11 A Well, worse from an electrical system
12 perspective, or not worse. I would say, you know,
13 again for transmission, you know, power line
14 loading impacts, it's location specific.

15 For the other benefits we talked about,
16 it's probably similar. I wouldn't say it's
17 better.

18 Q No, but you probably wouldn't say it's
19 worse, either, then, right?

20 A Probably not. Again, it's all
21 hypothetical.

22 Q That's fine, and I appreciate that.
23 Going over it without taking the time of going
24 through those seven topics, can you see any
25 difference of having, let's say, 12 50 megawatt

1 power plants, spread it out strategically through
2 the grid, and the advice of the ISO of where it
3 would need to be, could you see that being a
4 benefit of 12 50 megawatts versus four --

5 A Well, the problem you get there is that
6 the smaller units, I don't know if they're as
7 efficient, or if they even make small combined
8 cycles like that.

9 So, you know, that, from just purely an
10 electrical perspective it might be similar. But
11 whether that kind of a scenario would ever be
12 economic, I don't know.

13 Q You're familiar with the 49.9 in Santa
14 Clara Power Plant?

15 A I know that there is one.

16 Q Is that a combined cycle --

17 A Actually, what, no, Santa Clara?

18 Q Yeah, City of Santa Clara --

19 A That's two 25s. I think they're
20 peakers. They're just simple cycle.

21 Q Okay. Let's move on to -- Peter, do you
22 know how much power could be generated in
23 California today?

24 A I know how much can be generated on the
25 ISO controlled grid.

1 Q Yeah.

2 A It's about 41,000 megawatts. That's our
3 dependable capacity.

4 Q Okay, now I seem to remember a chart
5 that was on your website stating around 45,000, is
6 there a reason why --

7 A Right, but then you have to take out the
8 forced outages and derates due to lack of water
9 and hydro, et cetera.

10 Q Okay, let me ask it again, though. How
11 much power can be generated in California, meaning
12 like if all of them were running.

13 A Well, okay, but you've got to remember,
14 I'll answer the question but that is not -- it
15 will never happen, because something is always
16 out. You can't run all hydro simultaneously at
17 full output, you know, there are restrictions.

18 But, if you could, about 45,000.

19 Q Okay. Do you know how much power we
20 need in the year 2003?

21 A For the ISO grid?

22 Q Yes.

23 A Not off the top of my head. I'd have to
24 refer to some notes.

25 Q Can you refer to them? It's pretty

1 important. It's been on your website for months.

2 HEARING OFFICER FAY: Well, was it in
3 your testimony, Mr. Mackin?

4 MR. MACKIN: For what year now, --

5 MR. AJLOUNY: 2003.

6 PRESIDING MEMBER LAURIE: Well, --

7 MR. MACKIN: We didn't discuss 2003 in
8 our testimony.

9 HEARING OFFICER FAY: If it's not in his
10 testimony he doesn't have to testify to it.

11 MR. AJLOUNY: Well, okay.

12 PRESIDING MEMBER LAURIE: If it's on his
13 website, this isn't a quiz.

14 MR. AJLOUNY: No, but I'm leading to a
15 point here.

16 PRESIDING MEMBER LAURIE: So, ask him if
17 he's aware that his website has x number of
18 megawatts listed for 2003.

19 MR. AJLOUNY: Okay, see, you're better
20 at this. Man, I should just give you the paper --
21 okay, so if it was a quiz you would have failed.
22 But, anyway --

23 MR. MACKIN: No, I would have missed one
24 question, that's not failure.

25 (Laughter.)

1 MR. AJLOUNY: Just giving you a hard
2 time, Peter, I like you, man, you're all right.

3 BY MR. AJLOUNY:

4 Q Okay, from what I remember in 2003, and
5 past 40 the memory's not as good, I want to say
6 it's around 50,000 megawatts. Does that seem
7 reasonable?

8 A It could be. Really, you know, without
9 having seen the data you're referring to, you
10 know, it's hard for me to say. I mean 50,000, it
11 seems like it could be, but you know, rather than
12 saying yes, no, since I'm not aware of it --

13 Q Okay, are you familiar with the ten or
14 so power plants that have been approved recently
15 in the last year or so by the California Energy
16 Commission?

17 A I'm aware of some, I don't know if there
18 were ten, but I'm aware of most of them.

19 Q Do you know approximately how much
20 generation it will provide for California?

21 A I'd have to add it up. I can run off
22 the ones I'm familiar with and their ratings. But
23 then somebody else has to do the math for me.

24 Q Is it fair to say that it's over 6000
25 megawatts?

1 A I don't know if it is. There's -- okay,
2 let me tell you what I'm aware of. The Los
3 Medanos 540; Delta 880; Moss Landing 1060 --

4 Q Wait a minute, 540, 880, --

5 A 1060.

6 Q 1060.

7 A We have, let's see what else do we
8 have, --

9 PRESIDING MEMBER LAURIE: Wait, wait,
10 wait, again, this isn't a guessing game.

11 MR. AJLOUNY: You know the answer to
12 this, I'm sure.

13 PRESIDING MEMBER LAURIE: Yeah, well, so
14 do you.

15 HEARING OFFICER FAY: What is the
16 ultimate question?

17 MR. AJLOUNY: The ultimate question is
18 does this mean that we should have enough power by
19 2003 without any imports.

20 MR. MACKIN: Without any imports? No,
21 absolutely not.

22 MR. AJLOUNY: Okay, I guess because of
23 the number of 41,000. Okay, where was this at?

24 HEARING OFFICER FAY: Well, you have Mr.
25 Mackin's answer.

1 MR. AJLOUNY: Yeah, okay.

2 BY MR. AJLOUNY:

3 Q Let me state the question this way: Is
4 it safe to say that we'll be in pretty good shape
5 by 2003 with the generation we have today and with
6 the generation that's been approved, and with the
7 projects you probably know of that are in the
8 process now, is it safe to say we'll be in decent
9 shape in the State of California by 2003?

10 A Well, some of the projects that are in
11 process now haven't been approved, so to count on
12 them is not a good idea. If you look at only
13 approved projects, I mean I think the ISO did an
14 analysis of how much generation, new generation
15 was expected and probable imports, and if you look
16 at that analysis it shows that if you look at
17 power plants that are under construction or
18 approved, and if you also look at the NP15
19 restrictions, that northern California has a
20 serious problem even in 2003.

21 Q That last statement, northern California
22 what?

23 A Has a serious problem even in 2003.

24 Q Do you know about how many megawatts
25 we're short by 2003 in that report?

1 A Not off the top of my head. I know
2 we're not in excess.

3 Q Turning to page 763 in the FSA it states
4 ISO Staff has clarified that if the transmission
5 projects approved by ISO in August of this year
6 are in service by 2001, the most likely cause of
7 rolling blackouts in the San Jose area is likely
8 to be a statewide shortage generation rather than
9 a transmission related deficiency in the San Jose
10 area, or the larger Bay Area. Reference Mackin
11 2000.

12 Then it continues to say the benefit of
13 MEC in reducing the potential for rolling
14 blackouts would primarily come from reducing the
15 overall statewide shortage of power and thus MEC
16 would reduce the potential of rolling blackouts
17 statewide, including San Jose.

18 Do you still feel that's true today?

19 A Not completely. The first part of the
20 statement where it discusses the transmission
21 reinforcements I believe that was in reference to
22 the June 14th outages. And I believe that's still
23 correct if the transmission reinforcements are in
24 place by 2001. And they will be, they're still on
25 schedule.

1 That 2001 and probably 2002, although
2 I'm not absolutely sure about 2002, that there
3 should be, that the San Jose area should meet the
4 reliability criteria. Now that's not to say that
5 for catastrophic outages there still wouldn't be a
6 problem.

7 But then the other part of the statement
8 that discusses the statewide shortage, I think
9 because we've done this refined analysis after
10 that statement was made, I think we've learned
11 that there's an NP15 problem.

12 And so the statement refers to the
13 benefit of MEC, it would actually be in reducing
14 the potential for rolling blackouts due to an NP15
15 shortage, not a statewide shortage.

16 Q And that NP15 is northern and southern
17 California you're talking about?

18 A NP15 is from Fresno north.

19 Q Okay. Do you have any prediction on
20 when we will have enough power generated in
21 California?

22 A I guess, because I can't be sure what
23 plants before the Energy Commission are going to
24 get licensed, and even then if licensed, which
25 ones are going to be built, I guess I really

1 couldn't say.

2 I mean if you assume that all plants in
3 the process get built I think 2004 would probably
4 be okay, but again, I haven't done -- well,
5 actually I think, yeah, 2004.

6 Q Okay. So, just earlier you said 2003
7 would have a serious problem in California for
8 power generation?

9 A Right, but again --

10 Q But 2004 you think we'd be --

11 A Well, but remember I used two different
12 criteria. For 2003 I said plants that were under
13 construction or licensed. And for 2004 I was
14 saying, you know, count a large percentage of ones
15 that are just in the process that haven't been
16 approved yet.

17 Q Okay, and that's fair to say, I mean you
18 don't know very many power plants that's already
19 kind of been in the process and, you know, going
20 smoothly really being rejected, do you? You're
21 feeling confident those power plants will probably
22 come on line?

23 A You need to ask the question again, I'm
24 not sure what --

25 Q Okay. Power plants AFCs that you know

1 of that have, you know, been in the process let's
2 say for at least six months. And that there's no
3 major hiccoughs there, is it reasonable to believe
4 that those would be approved?

5 A Well, I guess unfortunately I'm not
6 familiar with every AFC that's before the Energy
7 Commission. I'm only familiar with a few. And
8 unfortunately all of those have been licensed or
9 there's this project.

10 So, well actually Three Mountain's not
11 licensed yet. But some projects do encounter
12 significant delays. I mean High Desert took three
13 years. Three Mountain's taking a long time, also.
14 So is this project.

15 Q Okay. Well, with the fact, let's just
16 go hypothetical, I guess, that we have enough
17 power generated in 2004, and San Jose area will be
18 in much better shape as far as the stability of
19 the grid, because of the statement that we just
20 referenced a couple questions ago, so here we've
21 got the June 1, 2001 upgrades that are going to be
22 completed for stability.

23 And then you have hypothetically enough
24 power generated by 2004, and I imagine that's by
25 the summer of 2004, the peak demand. Is bullets 1

1 and 2 on page 660 still true, from 2004?

2 And I can read the first two bullets:
3 California and the Great San Jose Area are facing
4 potentially serious electricity shortage which
5 necessitates immediate action by the state.

6 A Well, I mean that's the present. I
7 mean --

8 Q I understand.

9 A -- it's true now. I mean it's hard for
10 me to say what it's going to be like in 2004.

11 Q But I think you just, you know,
12 forgetting about that bullet, I think you kind of
13 just answered it that by 2004 we'll probably be
14 okay in the State of California. You just
15 testified --

16 A Well, I said if all plants currently
17 before the Commission get licensed and built,
18 which is not a certainty.

19 Q I understand. How about bullet number
20 2, the siting of local generation such as MEC is
21 of statewide importance to assist in maintaining
22 an adequate supply of electrical power.

23 A That's still true.

24 Q Page 660. That's still true?

25 A Yeah, that's always true.

1 Q Okay. That's fair. I'm concerned about
2 when you say local generation, such as MEC, would
3 we be able to replace the word MEC with local
4 generation such as hypothetically City of San Jose
5 Mayor -- San Jose City Mayor proposal of four
6 sites around, or 12 sites around is of statewide
7 importance to a system maintaining an adequate
8 supply of electrical power?

9 A Well, remember that statement refers to
10 local generation in general. You know, not just
11 MEC. So you're going to need more than just MEC
12 as local generation.

13 I mean basically the statement is
14 referring to that local generation near the load
15 is of statewide importance because it reduces
16 losses and provides benefits.

17 It's not -- you know, so I guess I
18 didn't really answer your question, but the
19 statement only refers to, you know, it's not
20 specific to MEC. It's a general statement.

21 Q Okay, I guess -- yeah, and what my
22 concern is you use the word local generation. I
23 was trying to figure out what you meant by local.

24 A Local would be in load areas. So, it
25 doesn't have a size requirement. It could be a

1 small unit, it could be a large unit.

2 Q Okay, so it doesn't necessarily have to
3 be at the location of MEC?

4 A No, that statement doesn't say that.

5 Q Okay, great. And it's just my lack of
6 experience, I guess, I thought it did say that,
7 so.

8 A No.

9 Q Going over -- can we agree, and I think
10 we did, so that's what having a script gets me in
11 trouble -- can we agree the loss is about half as
12 much if the power plant is built in alternates 1
13 through 4, approximately?

14 A I'd like to wait until we do
15 alternatives for these. That's an alternatives
16 question, really.

17 Q I understand, but you have the skill for
18 it now, and I just want to make a point because
19 we're in local system effects --

20 A I'll be here on alternatives, too. I
21 can still answer it.

22 HEARING OFFICER FAY: We're going to
23 defer that.

24 MR. AJLOUNY: Well, can I -- will I be
25 able to -- local system effects, or are you going

1 to say that's closed?

2 Because I want to refer to -- my
3 objection, I mean my reasoning behind that is I
4 want to go to bullet 3, and all these numbers and
5 dollars and amounts, could we assume to double?
6 And that's all I was going at.

7 MR. MACKIN: Those numbers are all in
8 alternatives, too, Issa. So you can talk about
9 them then.

10 BY MR. AJLOUNY:

11 Q They are there?

12 A I believe so.

13 Q Okay. Well, could you answer the
14 question would it be doubled pretty much? I mean,
15 yes or no?

16 HEARING OFFICER FAY: Go ahead, respond.

17 MR. MACKIN: For which alternatives?
18 One and two?

19 BY MR. AJLOUNY:

20 Q Yeah, one and two.

21 A I believe it's close to double for loss

22 --

23 Q Okay, three and four?

24 A I think that's also close to double.

25 Q Okay, so all those numbers in local

1 system effects, page 660, bullet 3, we can pretty
2 much double for alternates one through four?

3 A I believe so.

4 Q Do you happen to know if there's room
5 for another transmission line in the existing
6 corridor from Gilroy?

7 A No, I don't know. I'm not familiar with
8 that corridor.

9 Q No problem. I wasn't either. I thought
10 I'd find out from you today. Okay, this is real
11 important to me.

12 HEARING OFFICER FAY: Issa, let me
13 interrupt you just a second. How much more do you
14 have?

15 MR. AJLOUNY: I have probably my whole
16 time, I have like 20 minutes or so.

17 HEARING OFFICER FAY: Twenty minutes
18 more?

19 MR. AJLOUNY: Yeah.

20 HEARING OFFICER FAY: Okay, can you
21 finish up within that time?

22 MR. AJLOUNY: I think so.

23 HEARING OFFICER FAY: Okay.

24 BY MR. AJLOUNY:

25 Q Okay, on page 644 --

1 A Okay.

2 Q Okay, the topic called area resources,
3 there's three paragraphs there pretty much.
4 Starting on the second paragraph it starts, the
5 DeAnza division?

6 A Right.

7 Q Okay. I want to focus in. In 1999
8 there was approximately 830 megawatts peak load.

9 A In DeAnza.

10 Q In DeAnza, just DeAnza.

11 A Yes.

12 Q Okay. All right, so that's 830. And
13 then 2005 you're estimating 938 megawatts for peak
14 load.

15 A Right.

16 Q So doing my math for just DeAnza we're
17 looking at 108 megawatts increase from '99 to
18 2005. Would I be right in assuming that?

19 A Well, you'd be right in saying that, but
20 you've got to remember that the '99 peak demand
21 was the actual peak.

22 Q That's fine.

23 A And the projection for 2005 is a one-in-
24 ten, so you know, '99 may have been a cool year.
25 And so it may look like a large load growth when

1 in reality it's not. Or vice versa.

2 Q Okay, but just for, you know, we're
3 looking at predictions and average, we're looking
4 at 108. Now, going to the San Jose division we
5 have 1700 megawatts that were actually used in
6 '99, and estimated 2005 is 2060, 2060 --

7 A Right.

8 Q -- difference being 360 megawatts.

9 A Um-hum.

10 Q Okay, if you want to trust my math. So
11 that's a total of 468 megawatts increase from '99
12 to 2005, is that right in assuming that?

13 A 468, yeah, I think so.

14 Q 108 plus 360.

15 A Um-hum.

16 Q Okay. Back to my notes real quick.
17 Give me one second, please. Okay, good, I blanked
18 out of where I wanted to go.

19 Keep that in mind, I know it sounds kind
20 of weird how I'm doing this, but keep that point
21 that we just made of 468 megawatts from 1999 to
22 2005.

23 Is it true that Los Esteros is included
24 in your modeling of the grid?

25 A The Los Esteros substation is, yeah.

1 Q Yeah, yeah, I'm sorry, the substation.
2 Did we have any rolling blackouts that you're
3 aware of in 1999?

4 A I'm not aware of any.

5 Q Now, looking at the same page, 644, we
6 see a peak demand of approximately 3000 megawatts,
7 correct? And that's taking --

8 A 3000 megawatts for what year?

9 Q I think that's 2005, forgot to put that
10 in my notes.

11 A Right, okay, 938 plus 2060.

12 Q Okay. So, with the 240 megawatts plus
13 let's say 750 megawatts by 2005, somehow we come
14 up with 750 megawatts, hypothetical.

15 A 750 megawatts of generation?

16 Q Generation.

17 A Okay.

18 Q To come on line by 2005, does that make
19 the South Bay Area a 6633, and I guess when I say
20 that you can explain what you meant by a 60/40
21 rule.

22 Maybe I should ask you if you can
23 explain the 60/40 rule.

24 A Okay, the 60/40 rule is 60 percent of
25 the load can be served through imports; 40 percent

1 through local generation.

2 So if you've got 3000 megawatts of load,
3 it would require 1200 megawatts of internal
4 generation.

5 And right now San Jose and DeAnza have
6 240.

7 Q Okay, so we have 242 today, and -- we
8 have 240 generated in '99, and we needed 2530 in
9 '99, right? The peak demand we needed 2530,
10 correct?

11 A Right.

12 Q And we had 242?

13 A Um-hum.

14 Q So does that make it a 90/10 ratio, or
15 90/10 rule that we would have in San Jose?

16 A Well, it's not a 90/10 rule, that might
17 be the ratio of generation to load.

18 Q So we had a 90/10 in 1999, correct?

19 A Yeah.

20 Q And yet we had no rolling blackouts?

21 A Right.

22 Q And if we hypothetically come up with
23 750 megawatts by 2005 and add the 242 megawatts
24 that we have generation today, we'll have
25 approximately 1000 megawatts to the 3000 that we

1 need in 2005. So would that come out to a 66/33
2 ratio?

3 A I guess it's pretty close. But again,
4 remember it's a rule of thumb, so.

5 Q I understand. But the rule of thumb
6 that you talk about 60/40, we are 90/10 and fine
7 in 1999. And I want to make the distinction that
8 we could be at least a 66/33 by the year 2005
9 using your data that you --

10 A Well, I don't know where you're getting
11 your 750 megawatts of generation from.

12 Q Well, I understand that that's a
13 hypothetical, but I don't think that's
14 unreasonable to see 750 megawatts being generated
15 in your South Bay Area that you talk about today,
16 San Jose --

17 A Well, I mean I guess I'd have to
18 disagree. I mean there's no proposals yet for any
19 of these projects.

20 Q Hypothetically if we had 750 megawatts
21 by 2005, with the 242, we'd be at 66/33 ratio?

22 A Yes, that's true.

23 Q Okay. I think that's the point I wanted
24 to make.

25 So I have a question here but I think

1 you said you can't answer it. Are you aware of
2 any requests for a possible connection hookup on
3 the grid by any future power plants?

4 A That's a pretty broad question. I mean
5 yes, I'm aware of proposals to interconnect to the
6 grid. Some are public, some are not.

7 Q Okay, and --

8 A And I can't discuss the nonpublic ones.

9 Q Are you, okay, is the one in Newark
10 area, or close to the Fremont station, alternates
11 three and four that was announced in the Business
12 Journal by Ken Abreu, is that public yet?

13 A You're talking about Russell City?

14 Q I'm talking about the one that Mr. Abreu
15 acknowledges that Calpine is looking to build
16 another power plant similar in size to the
17 proposed 600 megawatt Metcalf Energy Center
18 facility in Fremont near two alternatives sites
19 listed by the Energy Commission.

20 A Okay, I'm not aware of that one. The
21 only one I'm aware of is the one that -- it was in
22 the Business Journal, I thought, was Russell City;
23 and it's in Hayward.

24 Q Yes.

25 A I'm aware of that one.

1 Q No, this is a new release on Friday.

2 A Okay, I'm not aware of that.

3 Q Okay. If you were -- okay -- could the
4 answer be you're not aware of it because it's
5 confidential?

6 (Laughter.)

7 MR. AJLOUNY: You know what I'm trying
8 to say --

9 MR. MACKIN: No, no, --

10 HEARING OFFICER FAY: He's answered the
11 question, Issa.

12 MR. MACKIN: You know that --

13 MR. AJLOUNY: I meant I thought it was a
14 legal thing he can't say.

15 MR. MACKIN: Well, no, but you know the
16 CIA always says I can neither confirm nor deny,
17 okay, that's what I'm going to have to say on some
18 of those.

19 BY MR. AJLOUNY:

20 Q Well, see, that's the point I want to
21 make. You can't confirm or deny because if you
22 know and it's confidential you can't say, I know
23 about it, but I can't tell you about it.

24 A Exactly.

25 Q Okay, so that's the point I wanted to

1 make.

2 MS. CORD: And that's different from
3 saying you don't know.

4 MR. AJLOUNY: Yeah.

5 MS. CORD: That's saying you can't say.

6 MR. MACKIN: Well, he asked me a
7 specific question about something in Fremont from
8 Calpine, and I know nothing about anything in
9 Fremont from Calpine.

10 MR. AJLOUNY: Okay, hold on a second.

11 BY MR. AJLOUNY:

12 Q In your analysis that we've been talking
13 about, your document, I understand not all the
14 power plants have been approved when you did your
15 analysis, but did you do any kind of analysis to
16 include those, I think it's ten, maybe the
17 Commissioners can help me out, I think it's ten
18 power plants that have been approved.

19 Did you do a modeling or see how things
20 look now with those power plants?

21 A With the ten approved ones?

22 Q Yes.

23 A We did an analysis for the ISO
24 controlled grid study that was one of the -- it
25 was the resource adequacy analysis. And I don't

1 know if it included all ten or not. It included
2 all projects currently before the Energy
3 Commission. Matter of fact, it included projects
4 that were just press releases.

5 And it went through and determined, you
6 know, for each level of certainty of power plants
7 whether we were adequate or not.

8 Q Would it change any of your testimony
9 that you have today regarding the Greater Bay --
10 the South Bay Area --

11 A You mean that analysis?

12 Q Yes.

13 A No.

14 Q It wouldn't change it at all?

15 A No. I just stated that I thought 2003
16 was, NP15 was a shortage situation, and that
17 analysis confirms that.

18 Q I guess I thought I heard you say
19 earlier that you didn't take into account the ten
20 or so power plants in this analysis?

21 A No, no, I don't think I ever said that.

22 Q So you did take into account all the
23 power plants, let's say ten because I think that's
24 what the number is, in your analysis in your
25 testimony that you have --

1 A Okay, there's differences between the
2 LSE testimony and then this appendix to the ISO
3 grid study, controlled grid study. In the ISO
4 controlled grid study all power plants, even press
5 release power plants, were included in the
6 analysis to see the effect of the different
7 amounts of generation.

8 The LSE study, we didn't include, you
9 know, generation in southern California because we
10 didn't even model southern California. It's not
11 important or germane to the local system effects.

12 But, for local system effects we did
13 include Los Medanos, Delta Energy Center, and the
14 Moss Landing Power Plant. And those were the only
15 ones in the Bay Area that are currently licensed.
16 Except for that Golden Gate, we did not include
17 that one, but that's only 50.

18 Q Okay, turning to page 659, second from
19 the last paragraph, let me know when you're there.

20 A Is that the one deferral candidates?

21 Q Yeah.

22 A Okay.

23 Q Deferral candidates four and five are
24 identified as facilities overloaded by the
25 connection of Delta Energy Center to the ISO

1 controlled grid. Even though the cost savings
2 from these two projects may not flow back directly
3 to PG&E and so forth.

4 I should read it, I guess. Savings for
5 these two projects may not flow back directly to
6 PG&E ratepayers, the environmental benefits of not
7 constructing or deferring these reinforcements
8 will still be created if MEC is present.

9 A Right.

10 Q Okay, so the way I'm reading that is if
11 MEC is not built, or let's say, we know Delta
12 Energy Center is going to come online before MEC,
13 how are you going to deal with candidates four and
14 five? You know what I mean?

15 A PG&E and the ISO and Calpine are
16 currently doing an operational study to determine
17 how we can get the output of Delta into the grid
18 without certain reinforcements, and also to
19 consider the impacts of potential delays in
20 certain transmission reinforcements.

21 And I believe we've got some
22 information, it's preliminary, though, it's not
23 finished. And so we're looking at methods to do
24 that.

25 But it's not a permanent solution. It

1 compromises reliability; it allows you to get more
2 megawatts to the grid to keep the lights on for
3 everyone, but then under contingencies you may
4 have problems.

5 So, you know, it's not a permanent
6 solution. And, as a matter of fact, we're still
7 working on it.

8 Q So it's like --

9 A -- we've got something we're looking at.

10 Q So it's like maybe a patch to deal with
11 the Delta coming on line and Metcalf not coming on
12 line at the --

13 A Right.

14 Q -- same time?

15 A Right.

16 Q So that patch, or that fix that you
17 call, or that I call, is that maybe for about a
18 year or so in you estimate, if Metcalf was
19 approved?

20 A Well, it's for as short a period as
21 possible, until whatever reinforcements are
22 required can get built.

23 Now, whether that includes MEC or
24 includes other transmission reinforcements, you
25 know, it's just until they get built.

1 Q Okay, so until they get built, so for
2 hypothetically, then, if it's a year do you think
3 you can handle it with your fix?

4 A Well, the study's not complete. So I
5 guess it would be premature to state that.

6 Q Would it be safe to say if you could do
7 the fix for a year then you probably could do it
8 for two years?

9 A That would require speculation, really.
10 But let me say this, the TSE or I mean the LSE
11 analysis assumed the Delta Energy Center at full
12 output. So, you know, we're not restricting,
13 we're not reducing the output of Delta in any way
14 in this analysis. We've assumed its full output.

15 PRESIDING MEMBER LAURIE: I'll give you
16 five minutes, Issa.

17 MR. AJLOUNY: I think I have ten, but --

18 BY MR. AJLOUNY:

19 Q Regarding the third transformer at
20 Metcalf that we've talked about, it's been
21 approved and you said might not be built because
22 PG&E might not have the money.

23 That transformer.

24 A Um-hum.

25 Q If that does go in, how much additional

1 power will be delivered to Metcalf from Moss
2 Landing's existing plus I think 1100 or so
3 additional megawatts that are going to be on line
4 here in the next year or so?

5 A I don't have a precise number. I don't
6 think it's going to make a significant difference,
7 though. Because the problem is 230 kV overloads.
8 And you're building another transformer. It may
9 have a slight impact, but I don't think it's going
10 to be significant.

11 And for the contingency it's not going
12 to make any difference.

13 Q Back to my question about the load in
14 this South Bay Area. Do you have any idea where
15 most of the load is, or, you know, we were going
16 to look at that map?

17 A I think I already answered I don't know.
18 I mean I can look --

19 HEARING OFFICER FAY: That's correct.

20 MR. MACKIN: -- at a power flow and I
21 can go in and I can start writing stuff on the
22 map, but I can't tell you off the top of my head.

23 BY MR. AJLOUNY:

24 Q I thought that would be a little bit
25 more detailed with the analysis. If we were going

1 to reference exhibit B that's sitting up there,
2 and the black line that's perceived as the Metcalf
3 boundary, --

4 A Right.

5 Q -- it's right in front of you there,
6 too. Could we assume if we put a power plant of
7 600 megawatts like alternatives three and four,
8 could we, you know, in your expert opinion would
9 that black line, if we were going to do a so-
10 called boundary for a Newark power plant, or
11 Fremont power plant, --

12 A Right.

13 Q -- would you -- wouldn't it be safe to
14 say that that boundary would go most of the
15 southern boundary of Metcalf?

16 A Okay, are you talking about with new
17 generation, or just add the existing system?

18 Q With new generation at alternates three
19 and four, let's say.

20 A It would probably move a little bit to
21 the south. I don't think it would be a huge
22 shift, though.

23 Q But then you don't think that the power
24 generation at the Newark station would dip into
25 the northern part of San Jose?

1 A It would move a little bit, but again,
2 the whole point, you know, and I guess I'm stating
3 what I believe the applicant did, so, you know,
4 the applicant really should answer this question,
5 but what I believe they did when they determined
6 this boundary is they basically looked at line
7 flows into the area that's surrounded by the black
8 line, and where those flows basically went to
9 zero, reversed, that's where they drew the line.

10 So, if you put more generation in
11 Newark, there's already load at Newark and there's
12 already load at all these stations, so the flows
13 are basically going to still -- everything's going
14 to be the same. All that's going to happen is you
15 put generation in Newark you're going to displace
16 a little flow around the outside. You're going to
17 displace flow from Tesla.

18 So, the boundary, it may move a little,
19 it's not going to move a lot.

20 Q Of the existing boundary of Metcalf
21 today?

22 A Right, the existing natural service area
23 of Metcalf is not going to really shift
24 significantly with generation in Newark.

25 Q So the way I understand this, that black

1 line that's on the map today would be the same for
2 Newark if a Newark station was built? Is that
3 what I --

4 A Well, the same for the Metcalf service
5 area, yeah. Now, if you want to --

6 Q Okay.

7 Q -- the Newark service area, that's
8 different.

9 Q But just for the record, if I built a
10 Newark power plant, 600 megawatts, did not have
11 Metcalf, we have an almost identical black line?

12 A I believe so.

13 Q Okay, and that's the point I wanted to
14 make, that I tried to make yesterday.

15 I think that's it. Oh, wait, oh, one
16 more last thing.

17 In Calpine's -- and I forgot to bring
18 the documentation with me, I apologize, Calpine
19 lists more deferrals than you did. You put out on
20 your -- you gave us an update on page 659. You
21 have listed here, you know, you have -- it's 1
22 through 8, but you crossed off 1 and 2, these
23 deferrals of capital facilities.

24 A Do you know what page that was?

25 Q Yeah, that's page 659 --

1 A Well, no, no, --

2 Q -- you --

3 A Yeah, in our testimony. I mean the
4 applicant's list, do you remember what page that
5 was?

6 Q No, I don't. It's in that big thick one
7 with the green --

8 A Yeah, there's hundreds of pages in
9 there.

10 Q Yeah. Okay, but I mean are you familiar
11 with the list of deferrals? I got to believe
12 you've looked at it.

13 A I saw the list, I don't recall what's on
14 it, though.

15 PRESIDING MEMBER LAURIE: Okay, this is
16 what we're going to do. Go ahead and --

17 MR. AJLOUNY: That's my last question.

18 PRESIDING MEMBER LAURIE: Go ahead and
19 look it up. Right now we're going to take a ten-
20 minute break --

21 MR. AJLOUNY: Okay.

22 PRESIDING MEMBER LAURIE: -- and come
23 back. You can finish that question. We'll
24 immediately move to Santa Teresa. You have 45
25 minutes. After that you'll have a half hour for

1 your direct. Okay. That's --

2 MR. AJLOUNY: Thank you.

3 PRESIDING MEMBER LAURIE: -- what we're
4 going to do, okay?

5 HEARING OFFICER FAY: Thank you.

6 (Brief recess.)

7 HEARING OFFICER FAY: We're on the
8 record.

9 BY MR. AJLOUNY:

10 Q Peter, are you aware of the deferrals
11 that Calpine listed in their testimony?

12 A I'm looking at the list right now, yeah.

13 Q Okay. Do you disagree with any of
14 those?

15 A Okay, it says potential planned
16 projects. So, I mean I guess I don't disagree
17 that MEC could potentially defer these. The
18 problem is I think some of them have already been
19 approved. I think one of them might even be under
20 construction. And others are no longer necessary
21 because other projects have replaced them.

22 But that doesn't, I mean that doesn't
23 mean that MEC -- I mean MEC might defer or cancel
24 these; some of them it won't, because, you know,
25 it's too late.

1 Q But in a general statement, if you can
2 help me put words in your mouth, basically is that
3 list mostly invalid? From what you just said?

4 A Well, okay, I guess I wouldn't say it's
5 invalid because the way I interpret this list is
6 it's potential projects that MEC might defer. It
7 doesn't say projects that MEC will defer. And
8 there's a difference.

9 Q Okay, so I guess we should note for the
10 record that might defer, and if it did say it
11 would defer, it would be highly incorrect as far
12 as what you know today?

13 A Well, if it said would defer, probably
14 everything on that list would be subject to
15 argument, because some of the projects aren't
16 projects yet, and other projects, you know, are in
17 the review process.

18 So, you know, you don't want to say
19 would defer. You always say might defer, because
20 it's a possibility.

21 HEARING OFFICER FAY: Okay. Thank you.

22 MR. AJLOUNY: Okay, that's --

23 HEARING OFFICER FAY: That concludes
24 your questioning.

25 MR. AJLOUNY: Hey, thank you, buddy.

1 HEARING OFFICER FAY: That was the last
2 question. Thank you, Issa.

3 And now, Mr. Alton.

4 CROSS-EXAMINATION

5 BY MR. ALTON:

6 Q So, on pages 642 and 643 you explain the
7 area resources and load for DeAnza division, San
8 Jose division?

9 A Okay, I guess my copy starts on 643.

10 Q Okay, --

11 A So but the -- is it the starting that
12 says setting and area resources, area resources?

13 Q Yeah.

14 A Okay. All right, I know which section.

15 Q Okay, so that's what, 645 on yours?

16 A 644 and 645.

17 Q Okay, basically the DeAnza division has
18 zero generation right now, is that correct?

19 A Yes.

20 Q Okay.

21 A Well, zero modeled in our cases. There
22 may be some small stuff that we don't model.

23 Q So that would be this self load stuff?

24 A Well, it could be very small, it's --

25 Q I think I --

1 A -- just netted --

2 Q -- stuff in --

3 A -- against the load and just not

4 modeled.

5 Q Okay.

6 A It would be, you know, less than 500 kW.

7 Q Okay. And so the generation that you
8 talk about being in the area, it's all within the
9 San Jose division?

10 A Right.

11 Q Okay. So that increases, say, San
12 Jose's load -- sorry -- yeah, I'm trying to think
13 which way -- it increases San Jose's generation to
14 load ratio versus what we've seen in presentations
15 from the applicant?

16 A So if you were -- well, let me put words
17 in your mouth, or let me rephrase your question.
18 So you're saying if you look at just San Jose load
19 versus just San Jose generation, it increases the
20 ratio?

21 I don't know, it looks like less than 10
22 percent to me, because you've got 242 versus 2700
23 megawatts.

24 Q I'm seeing 1700 megawatts, 1999.

25 A Okay, you're right, I'm sorry, so, yeah,

1 it would increase it a little bit.

2 Q A little bit, okay. And it's infinite
3 for DeAnza?

4 A I'm sorry?

5 Q Is it infinite for DeAnza, zero over --

6 A Well, --

7 Q -- whatever the number of load is?

8 A -- let's see, no, it would be zero
9 because it's max gen over peak load. It would be
10 zero.

11 Q Yeah, sorry, zero. Infinite would be
12 good, I guess. Okay, so you started with the 1999
13 demand forecast for one-in-ten year adverse
14 weather condition. For the year 2000 being 1850
15 and you scaled that up, is that -- and I think on
16 the second page, 645, is where the numbers appear.
17 You say the modeled load in the area is 2857
18 megawatts in 2002, and 3297 megawatts in 2005
19 during peak conditions resulting in certain amount
20 of imports.

21 A Right.

22 Q Okay. So, where did you get the scale
23 up from?

24 A Okay, the way we arrived at the scale
25 up, we looked at the year 2000, June 14th peak

1 load, and we calculated what that would have been
2 if it had been one in ten weather conditions. And
3 what we found was that the load would actually
4 have been a little bit higher.

5 Then we looked at load growth in the Bay
6 Area, the historic load growth, and the
7 information we have is that it's about 500
8 megawatts a year for the last couple of years. So
9 we applied that factor, and we actually were
10 conservative, because instead of starting at over
11 9200 we started at 9000 and applied a 500 megawatt
12 growth rate to the Bay Area load for two years to
13 2002.

14 And then from that point on to reflect
15 the lack of certainty in the load forecast, and
16 also things like conservation and demand side
17 management and other effects, we reduced that load
18 growth to 250 megawatts per year.

19 So 2005 we came up with a Bay Area load
20 of 10,750 megawatts. And then we took the
21 existing load in the case and scaled it to arrive
22 at those load forecasts for the Bay Area.

23 And then the numbers that are given in
24 the report are just the division sums for after
25 the scaling has been performed.

1 Q Okay, --

2 A Now, one thing, and I guess, you didn't
3 ask the question, but I guess it did come up
4 yesterday. One thing we did do, we did
5 differentiate between conforming and nonconforming
6 loads and typically nonconforming loads are
7 industrial loads, and conforming loads are the
8 residential and commercial loads.

9 And we only scaled the conforming loads
10 in our analysis. We didn't scale the
11 nonconforming.

12 Q Are you aware of recently published PG&E
13 basecase loads for the 2001 expansion plan
14 assessment?

15 A I'm not personally familiar with it, no.
16 Because our groups at the ISO, we transferred
17 responsibilities, and I'm now working on the
18 southern area. So I'm not following PG&E in the
19 north anymore.

20 Q Okay. Would you be surprised that PG&E
21 forecast a load for 2005 at 3077 after they have
22 taken into account the June 14th experience?

23 A 3077 for?

24 Q 3077 for 2005, the year 2005, versus
25 your prediction of 3297? So basically it's 220

1 megawatts lower.

2 A I guess I really can't comment on it
3 because I'm not aware of their forecast. I mean I
4 believe that our forecast is the most accurate
5 forecast. I don't know what PG&E's assumptions
6 were and how they developed their numbers. So I
7 really can't comment on them.

8 Q The PG&E 2000 assessment results showed
9 with the increased Silicon Valley power demand
10 something on the order of 15 -- well, I think your
11 letter of 22 problems, voltage violations and --

12 A That was the 2000 assessment?

13 Q Yeah.

14 A Yeah.

15 Q Okay. And so there were some projects
16 proposed by PG&E to solve those. Were any of
17 those included? Because that was going on around
18 the time that you were doing the LSE assessment in
19 August.

20 A Right, what we did, because, you know,
21 we prepared this testimony in October, in order to
22 make sure that our testimony was still accurate,
23 we went back and looked at the PG&E's 2000
24 assessment, the current state of generator
25 approvals in the Bay Area, and we modeled all the

1 new projects that PG&E currently plans to have,
2 that the ISO and PG&E approved in the 2000
3 assessment, we modeled those in the Bay Area.

4 And just double-checked the analysis to
5 make sure that our conclusions were still valid.
6 And they're still valid.

7 Q Okay, I'm going to skip over my question
8 on the 500 kV 230 transformer.

9 A I could answer that if you want. We did
10 model that transformer in our analysis.

11 Q Okay. I'm still curious about the new
12 buss versus Metcalf buss and voltage collapse.
13 Recent stakeholder meetings on the 2001
14 transmission assessment seemed to focus on the
15 Newark and the San Mateo busses and don't mention
16 Metcalf.

17 Is the 6/14 incident, in your opinion,
18 was it a Newark issue or a Metcalf issue?

19 A I didn't do any analysis on the 6/14. I
20 think, as has been mentioned earlier, the voltage
21 at Newark was the trigger that caused the load
22 shedding to be initiated. But it was my
23 understanding it's a South Bay Area reactive
24 margin deficiency, and whether it's at Newark or
25 Metcalf it's still, you know, that was a

1 deficiency in the area.

2 And the other reason, I mean again I'm
3 speculating a little bit here, but PG&E is adding
4 350 megavars at Metcalf on 500 kV buss for the
5 summer. That may be why the 2001 assessment is
6 focusing on San Mateo and Newark now.

7 Q So you say the problem is being
8 alleviated somewhat at Metcalf?

9 A Well, again, like I said, I would be
10 speculating because I wasn't, you know, I wasn't
11 in any --

12 Q Okay.

13 A -- you know, in this part of the
14 assessment. PG&E does have a project for Bay Area
15 voltage support. Or a proposed project. They're
16 still studying it. And I don't know, you know,
17 they may be focusing more now on San Mateo and
18 Newark.

19 Q So my next question was does MEC have to
20 be connected to the Monte Vista buss to provide
21 the voltage support that's needed in the South
22 Bay? Not the Monte Vista buss, the Monte Vista --
23 Metcalf to Monte Vista line.

24 A Okay, but ask the question one more
25 time.

1 Q Does MEC have to be connected to the
2 Monte Vista to Metcalf line to provide voltage
3 support in the South Bay?

4 A No, it doesn't have to be. I mean to
5 provide the specific voltage support that was
6 looked at in the analysis, yes. But you could
7 connect it somewhere else and it would divide
8 voltage support in another area.

9 Q Do you recall at one of the transmission
10 workshops you presented information on moving MEC
11 along the 230 kV line to Newark?

12 A Yes.

13 Q And you spoke in terms of no overloads
14 as long as you were within 17 miles of Metcalf
15 substation?

16 A I seem to recall that. I actually have
17 it in my file. I can look at it if you want me
18 to. It was something, some distance from Metcalf.

19 Q Okay.

20 A Actually, you know what, now I remember,
21 because I think you mentioned that in something,
22 testimony.

23 It was further than 17 miles.

24 Q Was it 21?

25 A If you want to wait a second I'll pull

1 that slide out.

2 Q Okay.

3 (Pause.)

4 MR. MACKIN: Okay, yeah, now I remember
5 what it was. The 17 miles, that was actually the
6 flow in megawatts and that's where it crossed the
7 blue line. But the yellow line is actually the
8 percent of rating. So the distance is 25 miles.
9 You could go as far as 25 miles from Metcalf
10 before you had an overload.

11 BY MR. ALTON:

12 Q Do you still regard that as providing
13 voltage support once it's 25 miles away, although
14 it is getting close to Newark?

15 A Voltage support, not to Newark -- excuse
16 me, the problem with this analysis is this one was
17 only looking at steady state line overloads, it
18 wasn't looking at voltage support.

19 Q Yeah.

20 A But, you know, obviously the further you
21 get away from a station the less voltage support
22 you're going to get at that station.

23 Q Okay. According to the power flow
24 studies in the AFC, 40 percent of MEC generation
25 in the 2002 peak case flows along this 28 mile

1 line to Monte Vista.

2 Now you spoke about remote location of
3 generation and loads. Is that 28 miles regarded
4 as remote? Or is that --

5 A Are we still talking about the Newark
6 line?

7 Q No, sorry, I've moved on to the actual
8 MEC connection.

9 A Okay.

10 Q And the delivery of roughly 40 percent
11 of its power through the 28 mile line to Monte
12 Vista through the --

13 A Okay.

14 Q -- Metcalf-Monte Vista number 4 line
15 which is one of the highest rated lines in the Bay
16 Area.

17 A Right.

18 Q 230 kV that is.

19 A Yes.

20 Q So, 28 miles of that kind of line is
21 regarded as short?

22 A Is this in reference to voltage support
23 or --

24 Q Yeah.

25 A You know, the voltage support, the

1 distance really is not a function when you're
2 trying to provide voltage support. The voltage
3 level of a line is more important than the size of
4 the conductor on the line, because to get vars to
5 flow you have to have a difference in voltage
6 between the sending end and the receiving end. It
7 doesn't really matter as much what the conductor
8 size is.

9 So, you know, and I guess to
10 specifically answer the question about whether
11 Monte Vista is remote from Metcalf, is that your
12 question?

13 Q Yeah.

14 A I guess I really can't answer it because
15 I haven't looked at it. You know, I didn't do a
16 sensitivity to say well, if I bump the voltage at
17 Metcalf how much does the voltage rise at Monte
18 Vista.

19 Q Okay.

20 A Because I'm not aware of how sensitive
21 it is.

22 Q Thanks. So, in your table, and you
23 provided a correction to it, you had 104, table 4.

24 A Right.

25 Q Number of low voltages eliminated with

1 MEC, year 2005 peak, 104.

2 A Right.

3 Q Now, there are only 40 substations in
4 San Jose, and those all showed up on your list, so
5 there are 64 other substations. Now, when I say
6 San Jose, I'm actually referring to the City of
7 San Jose.

8 Some of these substations are, for
9 instance, Lone Star, which I believe on the map is
10 in Davenport, which is in that triangular area
11 between in the south region of the natural service
12 area, further up highway 1 from Santa Cruz.

13 A Right.

14 Q So that would be providing support to a
15 fairly remote location, wouldn't you say?

16 A Yeah, well, I guess the point here is
17 what this basically shows, since it's showing
18 differences in voltages with MEC and without MEC.

19 What it shows is that the 600 megawatts
20 and 400 megawatts of generation at Metcalf has a
21 wide-ranging impact on voltages. And it's
22 probably a lot of it is due to the fact that
23 you've relieved the loading on the lines coming
24 into the Metcalf substation. Not as much due to,
25 you know, voltage support flowing from Metcalf to

1 Lone Star, for example.

2 Q Okay. So you're saying Metcalf has wide
3 ranging support, not just local effects?

4 A As far as voltage goes, yes. It looks
5 like it does.

6 Q Do you know the history of the Monte
7 Vista/Metcalf lines 3 and 4?

8 A I don't know all the history. I know
9 how they're -- well, how they were currently
10 configured last summer, and I know how they will
11 be configured this summer.

12 Q Did you know that it was constructed
13 roughly in the early '70s?

14 A I didn't know that.

15 Q Okay, and at that point it was just the
16 Metcalf/Monte Vista number 4 line, and the number
17 3 line was added in June of '99, did you know
18 that?

19 A I know it was added. I didn't know if
20 it was that recent, but, yeah, I knew it was
21 added. And you're right, it was added recently.

22 Q So do you know how much that cost?

23 A No, I don't.

24 Q Would the number \$10 million sound about
25 reasonable for just adding the conductor in that

1 line?

2 A It could be in the ballpark. Again, the
3 towers are already in place and all you're doing
4 is stringing conductor.

5 Q Yeah.

6 A Yeah.

7 Q So that was a normal transmission
8 expansion piece of work that goes on from year to
9 year?

10 A Yes.

11 Q And there was no request for bid for
12 generation to Monte Vista to alleviate the need
13 for that line?

14 A No, because at the time the line was --
15 especially if it was in service by '99, there was
16 not time. The ISO was still developing the
17 generator interconnection long-term grid planning
18 policies.

19 We really hadn't envisioned competitive
20 solicitations for transmission alternatives at
21 that time, and it was needed by '99. So PG&E
22 proposed it, and then as a matter of fact, that
23 might have been a pipeline project, it may have
24 already been approved and under construction
25 before the ISO took control of the grid.

1 Q Would PG&E have put that line in knowing
2 that it was required to deliver power from the
3 Metcalf plant, from MEC?

4 A Well, okay, let me rephrase your
5 question the way -- well, let me ask a different
6 question and then you tell me if that's what you
7 want me to answer.

8 Are you saying if they hadn't built the
9 line and there was no line there, and then Metcalf
10 came along and said, gee, we need to interconnect
11 and we need this line built, would PG&E have built
12 it for Metcalf? Is that your question?

13 Q Yeah.

14 A They wouldn't have built it at their
15 cost for Metcalf. They might have done it if
16 Metcalf had paid.

17 Q Going back to calculating loads and load
18 increases, are you aware of any communication
19 between ISO and San Diego -- in the south, San
20 Diego Gas and Electric with respect to them
21 forecasting a reduction in peak loads?

22 A I'm aware of something, I'm not aware of
23 the details. I know they have been -- they've
24 calculated a reduction in load due to price
25 sensitivity. Due to the June last year.

1 Q So their statement is that they've seen
2 an underlying increase of 4.5 percent in baseload,
3 and a peak load reduction of 4 to 11 percent.

4 Does that tie in with your recollection?

5 A I don't recall, I mean I'll just have
6 to -- if that's what they said, then, you know, I
7 can't -- I don't remember the numbers. I don't --
8 remember whether there was a number and it
9 translated to a reduction in load growth of a
10 couple hundred megawatts, in that range.

11 Now, if that's what those percentages
12 add up to, then, yeah. Otherwise, no.

13 Q So, does this show that peak load is
14 kind of flexible compared to baseload?

15 A Peak load is only going to be responsive
16 to price if it sees the price. And, you know, the
17 problem right now is load doesn't see the price.
18 And, as a matter of fact, according to the
19 Governor he's going to do all this fixing of the
20 electric system problems with no increase in
21 rates.

22 So, I don't know if there's going to be
23 a demand responsiveness to the price.

24 Q Do you think there's a demand
25 responsiveness to reliability? For instance,

1 recent newspaper reports and the Governor
2 announcing that there's been an 8 percent drop in
3 peak load reduction this winter? Even though this
4 isn't the peak time?

5 So the question was do you see the
6 reduction in peak load due to perceived
7 reliability problems?

8 A So you're saying if someone were to make
9 calls for conservation because of resource
10 inadequacy or potential rolling blackouts would
11 that be effective? Is that your question?

12 Q I'm sorry, I missed the last part.

13 A Okay. I guess I'm asking are you asking
14 if there would be potential reductions in demand
15 due to a call for conservation, due to the risk of
16 rolling blackouts? Like if the ISO were to call,
17 say we're in a stage 3, please conserve, or you
18 know, we're trying to avoid rolling blackouts?

19 Q Actually, no. That seems like a more
20 direct thing. I'm talking more about the
21 awareness of the public as to what peak load is
22 versus baseload. Like running your dryer at --
23 electric dryer at 3:00 in the afternoon in the
24 middle of summer is not a good idea.

25 A Yeah. Well, it's not a good idea

1 because sometimes it makes your house hot even
2 when you air conditioning is running all the time.

3 I don't know, I'm not aware of whether
4 there's going to be a reduction or not. I really
5 can't say.

6 Q Okay.

7 MR. ALTON: I think that's all I have.

8 And I think Ms. Cord has --

9 HEARING OFFICER FAY: Okay, Ms. Cord.
10 You have 20 minutes of time left.

11 MS. CORD: Oh, I'll be much briefer than
12 that.

13 HEARING OFFICER FAY: Okay.

14 CROSS-EXAMINATION

15 BY MS. CORD:

16 Q Mr. Mackin, how are you?

17 A Oh, I'm fine, I'm medium well, now.

18 Q Okay. We're not finished yet.

19 A Well, you know, there's well done,
20 still.

21 Q We're working on it. I believe you're
22 the one that stated that the June 14, 2000 episode
23 would have been avoided if Metcalf were operating
24 then, Metcalf Energy Center?

25 A Yes.

1 Q You said that? Okay. Is it true that
2 PG&E, before ISO, handled similar or even higher
3 loads on days in prior years without having
4 rolling blackouts?

5 A Higher than June 14th?

6 Q Yes.

7 A No. Not in the Bay Area. You're
8 talking about Bay Area load? June 14th was an
9 absolute peak record.

10 Q For the Bay Area?

11 A For the Bay Area.

12 Q Do you remember what the peak was that
13 day?

14 A It was -- before load shedding it was
15 9200, around 9200 megawatts.

16 (Pause.)

17 MS. CORD: Let me look at this for a
18 second.

19 (Pause.)

20 BY MS. CORD:

21 Q You mentioned, I think it was you,
22 refresh my memory, that there were some peaker
23 projects that were applied for and then withdrawn?

24 A Yes.

25 Q Okay. And is it your testimony then or

1 now that if those projects were being actively
2 pursued that would somehow help?

3 A If they were being pursued, and they
4 were actually built, yes, it would help.

5 Q And six was the number you said, six
6 peaker projects?

7 A Yeah, I think there were five in the Bay
8 Area and one was in Hetch Hetchy.

9 Q Okay, the five Bay Area ones, do you
10 know who the applicant was for those five peaker
11 projects?

12 A The five specifically that I was
13 referring to was Calpine.

14 Q All five?

15 A I believe so.

16 Q Okay. So by tying up those sites and
17 then pulling those projects out, that really sort
18 of increases the need for Metcalf in a way?

19 A Well, --

20 Q That's just a yes or no. If you know.
21 You don't have to answer it.

22 A Well, I guess the -- I guess I don't
23 understand the question. If you could rephrase
24 it?

25 Q No, I think you told us. Okay, are you

1 well done, yet?

2 A It's getting closer.

3 Q Let me try to rephrase that. Since
4 those peaker projects have been withdrawn, that
5 really means we need Metcalf Energy Center even
6 more and even faster? Could it contribute to that
7 statement?

8 A Okay, let me answer it this way. If you
9 had those peaker projects, then for the peak load
10 situation the need for Metcalf would have been
11 reduced. Okay, not eliminated, but reduced.

12 Now that those projects are no longer
13 being proposed, then that increases the need for
14 Metcalf.

15 Q So just hypothetically if your goal were
16 less about providing energy and more about pushing
17 through Metcalf that would really be a smart thing
18 to do?

19 HEARING OFFICER FAY: He's not qualified
20 to answer that.

21 MS. CORD: I didn't think he was. I
22 just -- I think he told us earlier that was
23 something he wasn't qualified for, so.

24 BY MS. CORD:

25 Q Did you state earlier that they wouldn't

1 spend hundreds of millions of dollars on a project
2 if they couldn't get gas, is that what you said?

3 A That was my opinion, yes.

4 Q Okay. Do you have an opinion about the
5 question I just asked you?

6 HEARING OFFICER FAY: Mr. Mackin is not
7 qualified to speculate about the motives of
8 Calpine. I mean you might ask Calpine witnesses
9 that question. I don't think it's appropriate for
10 the ISO witness.

11 MS. CORD: Okay, well, but then it was
12 appropriate to have an opinion that they wouldn't
13 spend hundreds of millions of dollars on a project
14 that -- I guess I'm not seeing the distinction.

15 PRESIDING MEMBER LAURIE: Probably not,
16 but he answered it --

17 MS. CORD: Okay.

18 PRESIDING MEMBER LAURIE: -- that way.
19 Whether it's appropriate or not --

20 MS. CORD: I guess I'm not following the
21 rules here. They seem to change.

22 HEARING OFFICER FAY: Well, see, we're
23 just not impressed with his opinion on how Calpine
24 thinks because he's not qualified to know their
25 internal corporate strategies.

1 MS. CORD: Okay.

2 HEARING OFFICER FAY: But he is
3 certainly qualified as to how the electrons
4 will --

5 MS. CORD: Well, it's really more of a
6 process, I'm asking you, if he was qualified
7 earlier to make an opinion, I guess I'm not --
8 but, anyway, I --

9 HEARING OFFICER FAY: As Commissioner
10 Laurie said, --

11 MS. CORD: -- don't need to pursue it
12 anymore.

13 HEARING OFFICER FAY: -- he answered it.

14 MS. CORD: I just have one more question
15 that Mr. Alton wants to ask.

16 CROSS-EXAMINATION - Resumed

17 BY MR. ALTON:

18 Q I wanted to go back to your previous
19 statement about Silicon Valley Power load growth.

20 A Um-hum.

21 Q If their load increases and brings the
22 grid to its knees, is it their responsibility to
23 fix it? Or is it PG&E's?

24 A It's a mutual responsibility. Silicon
25 Valley Power is responsible for informing PG&E

1 what their load forecasts are. And then PG&E and
2 Silicon Valley Power are responsible for making
3 sure that whatever reinforcements are needed to
4 serve that load reliably are built.

5 As a matter of fact, Silicon Valley
6 Power intervened in the Los Esteros Project EIR,
7 the CPCN, because they wanted some additional 230
8 kV facilities, or they wanted some -- to serve
9 their load they realized that they needed 230 kV
10 service. And so they wanted to make sure that
11 they could get that. And they wanted to make sure
12 Los Esteros was built to accommodate them.

13 Q So Silicon Valley Power want to have Los
14 Esteros built and I think they're looking at
15 running 230 kV lines to the Kuyfer substation, is
16 that your understanding?

17 A Or -- well, I think they're calling it
18 northern receiving station, I think it's another
19 new station, I believe.

20 Q I believe they have an existing 230 kV
21 capacity line which is currently running at 115
22 kV?

23 A I'm not aware of that. I thought they
24 were both 115 kV, or that all service was 115, and
25 I wasn't aware that the lines could be upgraded.

1 Q The tower on the left, as you drive
2 north on 101, is bigger than the one on the right,
3 and I believe that's 230 kV. That's what I heard
4 at the Los Esteros meetings.

5 A Okay, well, it would --

6 Q Does that sound --

7 A Well, again, I don't know specifically.
8 But it would also depend not only on the size of
9 the tower, but the length of the insulators.
10 That's the determining factor on voltage.

11 Q Okay, so SVP is -- its load growth is
12 driving the South Bay Area load growth?

13 A No, I didn't say that.

14 Q Sorry. Okay. It's dominant as part of
15 the, in terms of the actual growth, it seems to be
16 a fairly dominant number if you've just put in an
17 extra 167 megawatts, or whatever that number --

18 A Yeah, I guess. The reason for
19 mentioning that was just to demonstrate that load
20 growth is still occurring, and it's significant.
21 I don't have additional information on San Jose or
22 DeAnza loads, other than what we provided in the
23 LSE.

24 And my point in providing the story
25 about Silicon Valley Power is just to demonstrate

1 that the San Jose and DeAnza loads could very well
2 be growing at a high rate, also, higher than maybe
3 what we forecasted.

4 Q Okay, thanks.

5 HEARING OFFICER FAY: Does that
6 conclude --

7 MS. CORD: One last --

8 HEARING OFFICER FAY: Sure.

9 CROSS-EXAMINATION

10 BY MS. CORD:

11 Q I just had a question about load growth
12 that Mr. Alton thankfully triggered my memory on.
13 Looking at the load growth projections that you
14 were talking about, was there any adjustment for
15 the number of the large number of layoffs we've
16 just had in the last week, and whether that
17 triggers any future -- well, let me put it this
18 way:

19 I think we've been on a very aggressive
20 upswing in terms of adding jobs to the area. And
21 I think it seems fairly clear that that's
22 changing, and potentially going the other way
23 pretty quickly. 13,000 jobs lost on Friday.

24 A Right.

25 Q Is there any --

1 A Well, yeah, I mean number one, the low
2 projections were made last year. So, you know,
3 any layoffs or economic changes that occur this
4 year obviously weren't incorporated.

5 But, one of the main drivers of the load
6 growth in this area is not just, I mean granted,
7 jobs do drive some load growth, but a very large
8 percentage of the load is also coming about due to
9 data centers. And data centers, I haven't heard
10 that anybody's not building data centers right
11 now.

12 So, you know, I don't know that the job
13 situation would have a significant effect. It
14 might, but I'd be speculating right now.

15 Q Well, I guess I just have the concern
16 that if 1999 to 2000 is somehow a base year,
17 that's really probably a peak year, employment-
18 wise, and growth-wise. Rather than a base year.
19 Would you agree that that could be a concern?

20 A Well, I guess I'm really not qualified
21 to speak to jobs or the economy. That's not my
22 area of expertise.

23 Q No, I didn't ask that. I said if 1999
24 to 2000 is somehow being used as a base year, that
25 would strike me that that would actually probably

1 be a peak year. Is there some kind of --

2 A Well, okay, 2000 was used as the
3 starting point for the load growth. You know, so
4 in other words we said what was the one-in-ten
5 load in 2000. You always start from your last
6 peak, and you take the one-in-ten forecast for
7 that year and that's your starting point.

8 And then what you do is you project the
9 load growth up from that point. Now, the load
10 growth we've seen historically about 500
11 megawatts, 250 to 500 megawatts of load growth
12 every year for the last three or four years.

13 So, you know, we're not just saying, you
14 know, from '99 to 2000, we're saying from '98,
15 '99, 2000 we've seen that high load growth.

16 Now whether it's going to slack off in
17 the future, you know, that could happen. And we
18 did anticipate that in our load growth projections
19 by using 500 megawatts for the first two years,
20 and then 250 beyond that.

21 Q Okay. I guess I just have the concern
22 that although there aren't many other factors
23 involved, the last three or four years have been
24 really peak years economically, job growth-wise,
25 Silicon Valley expansion, that sort of thing.

1 A Right.

2 Q Which wouldn't be expected to continue
3 indefinitely, and probably isn't continuing right
4 now.

5 A Right, and that's exactly the reason why
6 we slacked off the load growth for the last three
7 years of the analysis, why we cut it in half.

8 Q On page 644, just let me look at my note
9 for a minute here --

10 (Pause.)

11 BY MS. CORD:

12 Q So on page 644, you were looking at it
13 earlier, --

14 A Okay.

15 Q -- at the bottom, area resources, the
16 second paragraph it says: The load growth in the
17 DeAnza division was 108. If you add those
18 numbers.

19 A Right.

20 Q And the load growth in DeAnza was --
21 excuse me, in San Jose was 360.

22 A Right, that's for six years.

23 Q And so what were you saying 500?

24 A Right, but that was for one year. So
25 what we have here is San Jose and DeAnza over a

1 five-year period or six-year period grew by 438 --
2 or 468 --

3 MR. AJLOUNY: And you said 500 per year.

4 MR. MACKIN: 500 per year for the entire
5 Bay Area, which is --

6 BY MS. CORD:

7 Q Oh, okay.

8 A -- 9200 megawatts.

9 Q Thank you for that clarification.

10 MS. CORD: That's all.

11 HEARING OFFICER FAY: Okay. Thank you.

12 Does that conclude the cross-examination by Santa
13 Teresa Citizen Action Group?

14 MS. CORD: I believe it does.

15 HEARING OFFICER FAY: Okay. Good.

16 Well, the next order of business is to take your
17 direct testimony. Oh, you have redirect, Mr.
18 Ratliff? I'm sorry.

19 MR. RATLIFF: No, we have no redirect.

20 We do want to move this into the record, though,
21 as well.

22 HEARING OFFICER FAY: Okay.

23 MR. RATLIFF: I think we marked the
24 exhibits, I recollect we marked them last night.

25 HEARING OFFICER FAY: Exhibits 157 and

1 158?

2 MR. RATLIFF: That's right.

3 HEARING OFFICER FAY: And you're moving
4 those at this time?

5 MR. RATLIFF: I'd move those --

6 HEARING OFFICER FAY: Is there
7 objection?

8 MR. WILLIAMS: Yes, for the record, sir,
9 this is a particularly crucial element of the
10 entire case. It will serve as a substantial basis
11 for a decision on whether to override.

12 The analysis is incomplete, and it's now
13 at least six months out of date. It doesn't
14 recognize several major facilities that have been
15 announced. And thus I urge that the LSE study not
16 be moved into the record until it is updated to
17 the current status of generation planning.

18 PRESIDING MEMBER LAURIE: Mr. Williams,
19 that goes to the weight of the evidence, not to
20 the admissibility of it.

21 MR. WILLIAMS: I see, all right.

22 HEARING OFFICER FAY: Are you putting
23 that in the form of an objection, Mr. Williams?

24 MR. WILLIAMS: Yes, I put it in the form
25 of an objection because I believe in all honesty

1 everyone's interest would be served by updating
2 the LSE study, rather than just saying that events
3 have confounded the analysis. But --

4 PRESIDING MEMBER LAURIE: The
5 appropriate response is to challenge the
6 credibility or the correctness of the information,
7 not the admissibility of it.

8 MR. WILLIAMS: I see, thank you, sir.

9 HEARING OFFICER FAY: Mr. Ratliff, do
10 you have a response?

11 MR. RATLIFF: Well, I suppose we
12 shouldn't file our testimony in advance then,
13 since tomorrow's headlines might be something we
14 have to incorporate into our testimony.

15 If the testimony is supposed to be
16 prefiled, then, of course, we have to do the best
17 we can when we could. And I think the testimony
18 that Mr. Mackin has made in the last two days
19 indicates that he has looked at most of the more
20 recent events, with the exception of those that
21 have perhaps been discussed in the newspapers in
22 the last two weeks. And has tried to take them
23 into account in his testimony now.

24 HEARING OFFICER FAY: All right. We're
25 going to overrule the objection and receive the

1 staff testimony on local system effects. But, Mr.
2 Williams is certainly welcome to argue his point
3 in the briefs.

4 At this time we'd like to move to Mr.
5 Alton's testimony so we can be sure to take that,
6 and allow parties an opportunity for cross-
7 examination before we break for lunch.

8 So, will somebody be assisting you in
9 introducing that? Ms. Cord? Okay. I believe we
10 need to swear the witness.

11 Whereupon,

12 TIMMOTHY ALTON
13 was called as a witness herein, and after first
14 having been duly sworn, was examined and testified
15 as follows:

16 MS. CORD: Thank you.

17 DIRECT EXAMINATION

18 BY MS. CORD:

19 Q Can you state your name for the record,
20 please?

21 A Timmothy Alton.

22 Q Would you spell your last name, please?

23 A A-l-t-o-n.

24 Q And are you here today, Mr. Alton, to
25 testify in the area of local system effects?

1 A Yes.

2 Q And did you prefile your testimony in
3 February on this issue?

4 A Yes.

5 Q Was your testimony prepared by you or at
6 your direction?

7 A By me.

8 Q By your staff? And are the facts
9 therein true to the best of your knowledge?

10 A To the best of my knowledge.

11 Q Are the opinions stated therein your
12 own?

13 A Yes.

14 Q And you adopt this as your testimony for
15 this proceeding?

16 A I didn't quite catch that one?

17 Q You adopt this as your testimony for
18 this proceeding?

19 A I have corrections.

20 Q Okay. You know, I think you have one
21 correction?

22 A I have a couple.

23 MS. CORD: He has several updates that
24 are based on updated forecasts and so forth, and
25 rather than listing them now, I'd like him to go

1 through them, as because they sort of follow
2 sequentially, if he can go through them as he
3 summarizes his testimony?

4 MR. ALTON: Sorry, could I just point
5 out that my corrections were miscalculations.

6 HEARING OFFICER FAY: Yes, I think --

7 MR. ALTON: So I'd like to pass out --

8 HEARING OFFICER FAY: -- I think it
9 would help if he could, especially if he has them
10 in writing, if he could do that before we start
11 his testimony so everybody knows what exactly he's
12 testifying to.

13 MR. ALTON: Okay, so I have copies here
14 where due to the word processor I was using the
15 items that were incorrect are underlined and
16 italicized, and the replacements in bold. So I
17 could pass those out now.

18 MS. CORD: I think he said the
19 replacements are in bold.

20 BY MS. CORD:

21 Q Is that correct, Mr. Alton?

22 A Yeah, the deleted text is underlined and
23 italicized.

24 Q So the parts to be deleted are
25 underlined and the bold is the correct

1 replacement?

2 MR. HARRIS: Do you have any more copies
3 of that? Several witnesses would like to look at
4 the document.

5 MR. ALTON: Actually, no.

6 BY MS. CORD:

7 Q Would you like to read the changes, or
8 just --

9 MS. CORD: Would that be more helpful,
10 let me ask, Mr. Harris? Would you rather have him
11 read through the list or --

12 MR. ALTON: Okay, so the changes were a
13 typo on table 1, Cal-ISO load and supply forecast
14 testimony, year 2005, that should have been
15 55,306, rather than 53,306, which led to an error
16 in the paragraph below that saying that the load
17 prediction had been increased by 5 percent.

18 So that line was -- that's deleted and
19 changed to 600 megawatts or something.

20 And in table 4, I apologize for the lack
21 of page numbers on this, I did it in html. Don't
22 do that.

23 Table 4, the last line, says: LSE
24 conservation. That was an unbelievable mistake in
25 the spreadsheet I was using. So I replaced that

1 with LSE conservation minus 8 percent. Sorry, LSE
2 minus 8 percent conservation.

3 MR. HARRIS: So the bottom line on this
4 corrected table is your change, and the underline
5 above it comes out?

6 MR. ALTON: Right.

7 And then on local versus regional
8 effects, which is probably on the next page, the
9 line that starts at the end of the paragraph that
10 says: The PG&E prediction calls for an increase
11 of 10,038 megawatts between 2000 and 2003.

12 That is absolutely incorrect. I deleted
13 it.

14 MR. HARRIS: Are we deleting then that
15 entire last line?

16 MR. ALTON: Yes. Once again, that
17 was -- I haven't been able to find the spreadsheet
18 that managed to generate that.

19 So those are my corrections.

20 MS. CORD: Thank you.

21 HEARING OFFICER FAY: So, in every case
22 the underline is to be deleted, and the bold is
23 the correct information?

24 MR. ALTON: Yes.

25 MR. HARRIS: So can I -- it's unclear.

1 These are all basically mathematical errors
2 related to the spreadsheet, it's not new
3 information, is that correct?

4 MR. ALTON: That's correct, that's why I
5 wanted to --

6 MR. HARRIS: Thank you for that
7 clarification.

8 MR. ALTON: -- not to -- yes.

9 MS. CORD: I said the wrong thing, --

10 MR. HARRIS: That's fine, thank you.

11 BY MS. CORD:

12 Q Okay, so let's get back here. Thank you
13 for those corrections. Okay, now, your
14 experience. Are you an electrical engineer
15 holding a bachelor of science degree with honors
16 from the Manchester Institute of Science and
17 Technology?

18 A The University of Manchester, yes,
19 Institute of Science and Technology, correct.

20 Q Thank you. Good. Okay, let me ask you
21 about the testimony you provided today. In the
22 area of statewide supply you refer to a chart from
23 Cal-ISO. What is this chart indicating?

24 A This is a chart that in February 2000 --
25 apologies for pronunciations, VP of operations for

1 Cal-ISO presented this chart to the California
2 Senate Committee chaired by Senator Borne, I
3 believe.

4 It indicates that for the years 2000
5 through 2002 we are relying on imports, but for
6 2003 through '7, enough new generation will be on
7 line to satisfy forecasted load growth.

8 The load includes a 7 percent reserve
9 margin.

10 Q Does that table include forced outages?

11 A Yeah, the table assumes 2000 megawatts
12 of unavailable generation.

13 Q Okay. Is this the table that Mr. Winter
14 from ISO said something about at the San Jose City
15 Council meeting, is that the same chart?

16 A Yeah.

17 Q Did Mr Winter's statement have an impact
18 on the interpretation or the implication of that
19 chart?

20 A Not beyond 2003. I heard Mr. Winter
21 state that the chart could not be relied upon
22 because imports were uncertain. Obviously this
23 has to -- has been borne out by last summer's
24 shortages of peak loads, but the chart clearly
25 shows that no imports are required from 2003 when

1 MEC will be first available until after 2007.

2 Q So you wouldn't say that Mr. Winter's
3 comments disqualifies these conclusions from
4 the --

5 A No, I don't think they did.

6 Q Okay. Do you have any more recent
7 forecasts from Cal-ISO?

8 A Yes, my testimony includes tables 2 and
9 3. And they're taken from appendix A to the 2000
10 ISO control area expansion plan study report. In
11 this particular, since it was a draft of 1/24/01,
12 and I think that's now final.

13 They increase the load for the year 2005
14 by 600 megawatts and they reduced imports by 5000
15 megawatts.

16 Q Okay, and how does that data change, or
17 how does it deal with generation availability?

18 A Rather than include a 7 percent margin
19 in the load, the report uses an observed 9 percent
20 outage rate, or 4900 megawatts less than a
21 noninstalled base. So they basically bumped the
22 required reserve margin up to 16 percent.

23 Q So that accounts for that?

24 A That accounts for the 9 percent plus the
25 7 percent to avoid a stage one emergency.

1 Q Okay. What is the new forecast for
2 serving load?

3 A The way the ISO reported was in terms of
4 status definitions from the CEC. One was under
5 construction or recently approved. Two,
6 regulatory approval received. Three, application
7 under review. Four, starting application process.
8 And, five, press release only.

9 So, on chart number 2 for 2005 with
10 imports restricted to the 2667 number, no new
11 imports. Just new internal generation. Category
12 4, which is the started application process. The
13 margin would be 24 percent.

14 And then they looked at the growth in
15 surrounding states versus the load growth in
16 surrounding states. And came up with a number of
17 38 percent at category 4, and 24 percent at
18 category 3. So, basically load is met at that
19 point.

20 In table 3 they took a look at the NP15
21 area only and reduced California-Oregon
22 Interchange by 1700 megawatts, so in this case
23 table 3 lists generation and imports from both the
24 north and the south. This was, it's a major 500
25 kV line outage.

1 And for 2005 category 3 provides 19
2 percent; category 4 provides 23 percent; and I
3 noted at the bottom that 600 megawatts of MEC
4 would be 2.5 percentage points in this column.

5 Q 2.5, okay, thank you. Has PG&E changed
6 their forecasts due to the peak loads in summer
7 2000?

8 A The 2001 version of the transmission
9 expansion plan is underway and load forecasts have
10 been modified based on last year's loads. The
11 one-in-ten year peak load for San Jose plus DeAnza
12 area is 2855 megawatts in 2003, which is below
13 last year's forecast.

14 And for 2005 it is 3077 megawatts, which
15 is plus 80 megawatts from last year's forecast.
16 And 220 megawatts below the FSA LSE forecast.

17 The base point for their slope was 200
18 megawatts above the 6-15-00 peak rather than the
19 6-14. Not that the Bay Area load was 500
20 megawatts less on the day after June 14th.

21 Q So what you're saying is the CEC-ISO,
22 they were using loads that were higher than what
23 was expected by PG&E?

24 A Yes, higher than they were expected at
25 the time they came up with the calculations, and

1 higher than the loads expected by PG&E, recent
2 data.

3 Q Thank you. Can you tell us about the
4 benefit of local generation?

5 A As we've heard many times, reducing
6 thermal loading of import transmission lines,
7 providing active power for voltage support, the
8 FSA states that the use of discrete capacitors
9 causes serious operational difficulties due to
10 their discrete capacity.

11 While a generator provides a smoothly
12 variable source. There are other capacity control
13 devices which provide smooth reactive power
14 according to EPRI. A visit to their website.
15 They can increase reliability and capacity by up
16 to 30 percent.

17 Q So MEC is not the only solution?

18 A Not according to the FSA.

19 Q Do capacitors supply real power?

20 A No. But as indicated in the first
21 section of my testimony, tables 2 and 3, there
22 will be sufficient plants on line at the time MEC
23 will be available.

24 Q What is the effect of other new plants
25 on reactive margin at Metcalf substation?

1 A As I noted in my testimony, sensitivity
2 studies for 2008 show MLPP expansion would provide
3 a worst case reactive margin of 428 mvar on the
4 Metcalf 500 kV buss, while MEC would provide 387
5 mvar.

6 So you can see that a 1060 megawatt
7 plant 35 miles away is only slightly better than
8 600 megawatts, a much smaller plant, virtually at
9 the substation.

10 But this one key figure leads me to
11 conclude that MEC does not have to be physically
12 adjacent to Metcalf substation to provide the
13 voltage support benefits shown in the LSE section
14 of the FSA.

15 Obviously if MEC were say five miles
16 away from Metcalf there may be some diminishing of
17 the value of voltage support, but since they will
18 be additive to Moss Landing, which is already
19 under construction, it is not a case of choosing
20 Moss Landing over MEC.

21 Q So are you saying that there's no
22 compelling electrical need for MEC to be adjacent
23 to the Metcalf substation?

24 A Not to be directly adjacent, no.

25 Q Okay. What is the relevance of project

1 T590 which is the third transformer bank at
2 Metcalf substation to Bay Area imports?

3 A Every RMR, I think we all know what RMR
4 is by now, every RMR study on the Cal-ISO website
5 dating back to 1998 lists an outage of one of the
6 500/230 kV transformer banks as limiting the
7 guaranteed imports to the Bay Area.

8 T590 was recommended for approval of the
9 board of Cal-ISO, and I guess it has been approved
10 by the board. The memo of recommendation to the
11 board states that the project will prevent 700
12 megawatts of load dropping under contingencies.
13 It would also provide some relief to the 320 kV
14 lines from Moss Landing.

15 Q So T590 which is already approved by the
16 directors of the ISO could defer the need for
17 generation and reduce RMR costs?

18 A Yes.

19 Q Have any studies been done by PG&E and
20 ISO on the load and transmission expansion for the
21 Bay Area?

22 A Yes, the annual transmission expansion
23 plan was conducted in 2000 for the years 2002,
24 2005, and some sensitivity for 2008. The local
25 San Jose results for this area are indicated in

1 table 4 and 6 -- sorry, in table 4. Six overloads
2 and no voltage violations.

3 That report also included an update from
4 Silicon Valley Power which increased their load
5 growth from 7 megawatts of growth to 37 megawatts
6 of growth per year.

7 As shown in table 4 the increased Santa
8 Clara load leads to 15 overloads and four voltage
9 violations. The load increases described in the
10 FSA then pushes this to 39 and 104.

11 Q So are you saying that most of these
12 overloads are not in San Jose?

13 A Yeah. Yes.

14 Q Have projects been identified to solve
15 the problems identify by PG&E?

16 A Yes, I've listed in my testimony these
17 projects; however, none of these supply the
18 problems associated with the extra load from SVP.
19 Only those caused in the PG&E San Jose area that
20 are caused by the SVP load increase.

21 So it's not -- it doesn't include
22 projects within Santa Clara.

23 Q I can't find the table right now, but
24 one of your tables shows a last line of LSE
25 forecast lowered by conservation. Where did you

1 get the amount from? Which table is that? I'm
2 sorry.

3 A That's the table I was referring to in
4 my corrections, table 4.

5 Q Okay. And can you tell us about the
6 conservation amount that you used?

7 A I started off with a 3 percent reduction
8 which was press releases from Cal-ISO, state 1000
9 megawatts have been reduced when the load was
10 around 33,000 megawatts.

11 As I explained earlier the spreadsheet I
12 was using, I made mistakes on, so I've replaced
13 those numbers with an 8 percent load.

14 There's a memo from SDG&E to Cal-ISO
15 regarding predicted peak load dropping by 4 to 11
16 percent despite a 4.5 percent observed increase in
17 baseload, and more recent reports put the state's
18 conservation efforts at 8 percent.

19 An 8 percent reduction would bring the
20 LSE peak load in 2005 down to 3033 megawatts,
21 which is between the original PG&E number and
22 their SVP sensitivity study.

23 Q Okay, thank you. This is now moving on
24 to local and regional effects. Have you examined
25 which of the substations gain voltage support from

1 MEC according to the FSA?

2 A Yes. I forget which appendix it was,
3 but they list 107 facilities as I mentioned
4 earlier, 40 are in San Jose. Obviously the
5 capacity of MEC has far-reaching effects.

6 It would be difficult to just define the
7 current location as the only one feasible to
8 provide voltage support for San Jose or even the
9 whole South Bay. It's support may be slightly
10 diminished if it was at alternative site A, or
11 even further away.

12 Judging by the voltage violations
13 reported in the 2000 PG&E study, the problems of
14 under voltage start to manifest themselves in
15 Davenport, on the coast, and Stanford Linear
16 Accelerator. These occurred under contingencies
17 of 230 kV capacitor outages at Metcalf or Monte
18 Vista.

19 Q So we've heard testimony about the
20 benefits of local generation, but MEC wouldn't be
21 local for most of these facilities that are
22 listed?

23 A It would be as local as Moss Landing is
24 local to south San Jose.

25 Q Okay. You state that south San Jose

1 represents 22 percent of the load in San Jose.

2 Can you tell us where that came from?

3 A The Northeast San Jose Transmission
4 Reinforcement Project report by PG&E divides San
5 Jose into three regions, northeast, downtown, and
6 the south.

7 The northeast area is 40 percent;
8 downtown 30 percent; and south San Jose 20 percent
9 of the loads.

10 If you add CVRP at 13 megawatts per
11 year, south San Jose increases to 22 percent by
12 2005.

13 Q Okay, so that number comes from the PG&E
14 amount, plus adding CVRP?

15 A Yeah.

16 Q Thank you. How much power from Metcalf
17 Energy Center would flow into San Jose?

18 A Well, we don't know where the blue
19 electrons go, but according to the AFC appendix
20 5.5A.2A a power flow study for the peak load in
21 2002 shows 40 percent of the power from MEC
22 heading to Monte Vista. The line is 28 miles long
23 and does not get tapped off at any other
24 substations in the area.

25 One could assume the other 60 percent

1 flows to San Jose. If MEC was at alternative site
2 A and connected to the Metcalf to Newark line, one
3 could think of it as a plant that's supplying San
4 Jose, since northeast San Jose is fed by the
5 Newark substation.

6 At one of the transmission workshops it
7 was stated that based on normal system thermal
8 overloads, MEC could move 17 miles and we guess we
9 heard earlier it was 21, along the Metcalf to
10 Newark line. There's a lot of space out there,
11 too.

12 Q So although we've heard testimony that
13 reduced line losses associated with Metcalf Energy
14 Center, there would also be line losses associated
15 with Moss Landing power that's diverted from
16 Metcalf substation, and also line losses
17 associated with almost half the MEC output that
18 would travel to the Monte Vista substation?

19 A Yes.

20 Q Is that correct? And these purported
21 benefits of MEC are not site specific?

22 A I believe they could be achieved at UTC.

23 Q Okay. Which alternate sites in the FSA
24 are superior?

25 A Alt 1 and 2 are closest to San Jose's

1 load center.

2 Q Okay, and so considering the areas that
3 have the greater load, I'm just wondering what are
4 the possibilities of finding appropriately
5 industrially zoned parcels in those areas? Do you
6 think there's a possibility of that?

7 A I guess I'd have to say there's a
8 possibility.

9 Q Okay. Thank you. I just have one thing
10 more. I'm going to check my notes.

11 MR. AJLOUNY: He's going to --

12 MR. ALTON: This is direct, Issa.

13 MR. AJLOUNY: I know that.

14 MS. CORD: Yeah, this is still --

15 BY MS. CORD:

16 Q This is a little confusing because we
17 hear San Jose area, South Bay Area, everyone has,
18 for every instance there's a different definition,
19 but in what has been called the South Bay Area,
20 which is, for the purpose of this discussion,
21 DeAnza plus San Jose division, is that one-third
22 of the load of the total Bay Area?

23 A Based on that 3200 number versus 10,000,
24 it would appear to be so.

25 Q Okay. Do you recall Mr. Mackin stating

1 that in the six years from 1999 to 2005 the peak
2 load increase would be 468 megawatts for those
3 DeAnza and San Jose divisions?

4 A Yeah, I think those were the numbers.

5 Q 644, 644.

6 A Okay.

7 Q So, Mr. Mackin's statement that there
8 would be a 500 megawatt increase per year for the
9 whole Bay Area, that would be more like 3000
10 megawatts?

11 MR. AJLOUNY: For the Bay Area.

12 MS. CORD: For the Bay Area.

13 MR. AJLOUNY: For six years.

14 MS. CORD: For six years.

15 (Laughter.)

16 MR. AJLOUNY: Does that make sense?

17 MR. ALTON: Okay.

18 MR. AJLOUNY: That's okay -- we're --

19 MR. HARRIS: Who's asking the questions?

20 MS. CORD: I am.

21 MR. AJLOUNY: Well, I'm trying to make
22 it quicker --

23 MS. CORD: Well, we'll be happy to do it
24 this way. Go ahead, Issa, tell me.

25 MR. HARRIS: Come on.

1 MR. AJLOUNY: Well, can you help explain
2 the discrepancy between the -- if it's a third,
3 you know, three times 500 is 1500 megawatts.

4 BY MS. CORD:

5 Q Do you have any idea where that
6 discrepancy, how that could be explained or --

7 A No.

8 MR. HARRIS: I'm going to object on the
9 basis this is beyond the scope of his direct
10 testimony.

11 MR. AJLOUNY: Well, we've been -- well,
12 never mind, we've been there before.

13 HEARING OFFICER FAY: I'm going to
14 overrule the objection and let the witness answer.

15 MR. ALTON: No, I don't know.

16 MR. AJLOUNY: That's the point you
17 wanted to make.

18 BY MS. CORD:

19 Q Is there anything else you want to
20 summarize from your testimony to share with us,
21 Mr. Alton?

22 A Going back to the script, in the answer
23 to the last question, I was supposed to say, well,
24 east of here there's nothing much to run into
25 except cows and transmission lines. And from what

1 I read in newspapers cows and transmission lines
2 make good neighbors for power plants.

3 Q Oh, well, thank you for sharing that.
4 That's good. Does that conclude, or do you want
5 to have a minute to look over your --

6 A The basic crux of the testimony from
7 STCAG is that the benefits of a 600 megawatt power
8 plant are not specific to a site at the
9 northeastern corner of San Jose's supposedly world
10 class campus industrial area. That's been in the
11 general plan for longer than Calpine has been in
12 existence. And well known to the neighborhood.
13 Thank you.

14 Q Good, thank you, Mr. Alton.

15 MS. CORD: So what do I do, do I move it
16 into the record?

17 HEARING OFFICER FAY: You may want to
18 wait until after cross-examination to move it in,
19 but let's mark it for identification.

20 MS. CORD: Why not?

21 HEARING OFFICER FAY: Mr. Alton's
22 revised testimony, if you wish an exhibit number
23 be given, that would be exhibit 159.

24 MS. CORD: Thank you.

25 HEARING OFFICER FAY: And just so people

1 can refer to that. And I know Commissioner Keese
2 has some questions. Before we go to cross-
3 examination of Mr. Alton I just want to --

4 MR. AJLOUNY: Nice.

5 HEARING OFFICER FAY: -- indicate that
6 the lunch is set out. It's cold sandwiches, so
7 anybody who doesn't need to be here right now can
8 go in and eat. And then following the cross-
9 examination of Mr. Alton, we'll all adjourn for
10 lunch.

11 All right.

12 EXAMINATION

13 BY CHAIRMAN KEESE:

14 Q Mr. Alton, did I hear you suggest that,
15 alternatives later, but did you say that you
16 prefer alternatives one or two? Did you say that
17 that's where the power plant should be?

18 A I said it was close to the load center.
19 I don't think I said it should -- that's where it
20 should be. If you want my opinion, I think it
21 should be out with the cows and the transmission
22 lines.

23 Q So, what was your reference to
24 alternatives one and two? Let me just say that
25 I'm going to ask later, although none of the

1 intervenors are offering direct testimony on the
2 alternatives area, I would like informally to
3 receive input, as I say, not testimony, but input
4 as to the alternative you prefer.

5 And I thought, as you were going through
6 your testimony here, you suggested that you like
7 alternatives one and two?

8 A I mentioned -- no. The question was so
9 which alternative sites in the FSA are superior,
10 and I answered alternatives one and two are
11 closest to the San Jose's load center.

12 Q So, alternatives one and two are
13 superior, that --

14 A No, no, --

15 MS. CORD: I think he said they're
16 closest to San Jose's load center.

17 MR. ALTON: I don't personally think
18 they're superior. I think alternative A is
19 superior.

20 CHAIRMAN KEESE: Okay, --

21 MR. ALTON: Which is out by the cows and
22 the transmission lines.

23 CHAIRMAN KEESE: I just thought I heard
24 something, so, thank you.

25 MR. ALTON: Yes.

1 MS. CORD: Thanks for clarifying that.

2 HEARING OFFICER FAY: Mr. Harris, do you
3 have cross-examination of the witness?

4 MR. HARRIS: Were we going to start with
5 Mr. Williams this time, then move on to --

6 HEARING OFFICER FAY: Oh, yeah, thank
7 you for reminding me. Yes, --

8 MR. HARRIS: Worry about Bob.

9 HEARING OFFICER FAY: -- want to go back
10 through our schedule.

11 MR. AJLOUNY: I ain't worried about him.

12 SPEAKER: Oh, I thought you always got
13 to go first, Jeff.

14 MR. HARRIS: Not --

15 HEARING OFFICER FAY: Let the record
16 show that Mr. Harris graciously reminded me of --

17 MS. CORD: I thought we were going to
18 have the intervenors switching order. I don't
19 think the applicant's an intervenor in here.

20 HEARING OFFICER FAY: Mr. Williams, do
21 you have any cross?

22 MR. WILLIAMS: Thank you, sir. I
23 requested no time, and I have no cross.

24 HEARING OFFICER FAY: Okay, Issa?

25 MR. AJLOUNY: I requested no time, so

1 I'm going to try to respect that.

2 HEARING OFFICER FAY: Okay, fine.

3 MR. AJLOUNY: Even though it's killing

4 me.

5 (Laughter.)

6 HEARING OFFICER FAY: Mr. Ratliff?

7 MR. RATLIFF: No, no questions. We

8 thank Mr. Alton for his testimony.

9 HEARING OFFICER FAY: Okay. Mr. Harris.

10 MR. AJLOUNY: Let's have lunch.

11 (Laughter.)

12 MR. HARRIS: Yeah, exactly. We also

13 thank Mr. Alton for being here, and we have no

14 questions.

15 HEARING OFFICER FAY: Okay. Is there

16 any party whom I've overlooked in asking about

17 cross-examination?

18 No, you cannot cross-examine yourself,

19 Mr. Alton.

20 MR. ALTON: Oh, --

21 (Laughter.)

22 MR. ALTON: -- I had some great

23 questions.

24 HEARING OFFICER FAY: As tempting as it

25 may be. So, --

1 (Parties speaking simultaneously.)

2 MS. CORD: Do you want to make any
3 closing --

4 HEARING OFFICER FAY: That concludes --

5 MS. CORD: -- statement, Mr. Alton, or
6 are you finished? Please go -- well, that was
7 going to follow the first rule, he would already
8 know the answers to the questions.

9 (Laughter.)

10 HEARING OFFICER FAY: Ms. Cord, would
11 you like to move that testimony into evidence?

12 MS. CORD: Of course, yes.

13 HEARING OFFICER FAY: Is there any
14 objection to receiving exhibit 159? I hear none,
15 so moved.

16 All right. We will --

17 MR. ALTON: I have, sorry, when I
18 submitted the testimony I didn't provide hard
19 copies of my references. Do you want to see
20 those?

21 MS. CORD: He cited references, but we
22 didn't --

23 MR. ALTON: I cited references by
24 hyperlinks.

25 MR. WILLIAMS: On the internet -- and he

1 has hard copies. It might be better for your --

2 MS. CORD: He's just offering --

3 HEARING OFFICER FAY: Yes, --

4 MS. CORD: These are reference sources
5 that he --

6 HEARING OFFICER FAY: All right, file it
7 with the --

8 MS. CORD: -- provide citations for, but
9 he didn't provide --

10 HEARING OFFICER FAY: All right, --

11 MR. HARRIS: What are these documents?

12 HEARING OFFICER FAY: These are -- could
13 you describe --

14 MS. CORD: They are footnotes that are
15 referenced in his originally filed testimony, and
16 the footnotes that were referenced mostly involved
17 hyperlinks to internet sites where you could find
18 those documents.

19 He's just providing hard copies of the
20 same documents that are referenced.

21 MR. HARRIS: I'm actually fine with his
22 testimony the way it is. What I'm concerned about
23 is I haven't looked at all these documents, and so
24 the references are fine, from my view, --

25 HEARING OFFICER FAY: Yeah, I don't

1 think we do -- now that I understand, it's very
2 typical to put all the references back. The staff
3 did throughout their testimony, and that's fine.

4 MS. CORD: Well, you know, the last ten
5 hearings that we've had on other power plants
6 we've done it this way, so we're just -- no, we
7 don't know what to do. We're trying to do what
8 suits you.

9 HEARING OFFICER FAY: That's all right.

10 MS. CORD: Thank you.

11 HEARING OFFICER FAY: That's fine. So
12 we've received Mr. Alton's testimony into
13 evidence.

14 And I do want to mention that I've got
15 copies of a draft briefing order that I'll make
16 available to -- was that your question?

17 MR. AJLOUNY: Yeah, that's what I wanted
18 to --

19 HEARING OFFICER FAY: Yes, and it has
20 the dates on it. And so you will be getting it in
21 the mail. I understand it was mailed today. But
22 this is the draft, and it's essentially the same.

23 Okay?

24 MR. AJLOUNY: And then one last thing,
25 since we got a couple minutes, Mr. Keese, you

1 mentioned yesterday that the staff's FSA is just
2 as equal to the rest of everyone else's -- you
3 made an equalization of the FSA or the staff's
4 testimony just like anyone else's testimony.

5 CHAIRMAN KEESE: No, if I did, what I
6 made a reference to is that as far as the
7 Commissioners are concerned, Commissioner Laurie
8 and I and our Adviser, the staff is in the same
9 role as you are. They're a party.

10 MR. AJLOUNY: Okay. And I guess the
11 point I -- yeah --

12 CHAIRMAN KEESE: And we don't have
13 private meetings with them. They're presenting
14 here, the applicant's presenting here, and you're
15 presenting here. That would have been my
16 reference.

17 MR. AJLOUNY: Okay. I guess the point I
18 wanted to make is you referenced -- I referenced
19 the Kisabuli letter, you referenced you didn't
20 read it. And I guess we wouldn't be here today, I
21 believe, if the FSA wasn't so favorable. Because
22 everything was built, that's like a foundation.

23 MR. HARRIS: Are we still on the record?

24 CHAIRMAN KEESE: Why don't we --

25 MR. HARRIS: Let's go off the record.

1 HEARING OFFICER FAY: Let's go off the
2 record --

3 MR. AJLOUNY: Well, no, I mean, why go
4 off the record?

5 HEARING OFFICER FAY: -- and --

6 CHAIRMAN KEESE: Off the record.

7 (Whereupon, at 12:40 p.m., the hearing
8 was adjourned, to reconvene at 2:00
9 p.m., this same day.)

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1 AFTERNOON SESSION

2 2:08 p.m.

3 HEARING OFFICER FAY: Mr. Harris.

4 MR. HARRIS: Being an attorney there's
5 always a couple conditions and stuff we set down,
6 but here's our thought.

7 Number one, if we're talking about a
8 stipulation to our direct testimony that covers
9 all parties, and we're willing to move forward
10 with the understanding, get no cross-examination,
11 no statements or summaries of positions, we just
12 accept the evidence and we're done with it, I
13 think we're fine with that.

14 The second issue is we still do have
15 some cross-examination questions for staff's
16 witness. And we want to reserve that right.

17 But with those understandings I think
18 that we would be willing to agree to the
19 stipulation.

20 HEARING OFFICER FAY: Okay, --

21 MR. RATLIFF: Could you repeat those
22 understandings, because I wasn't sure I
23 understood.

24 (Laughter.)

25 MR. HARRIS: Well, the understanding is

1 we want to make sure we understand what we
2 understood.

3 For our witnesses and our testimony
4 there would be a stipulation, and so we'd have no
5 direct testimony and no cross-examination, okay.
6 So applicant's testimony would come in by
7 stipulation.

8 The second issue, and I wanted people to
9 be clear, is we still do have some questions for
10 cross-examination of staff's witness. And, in
11 fact, we have probably a little bit more because
12 there's one thing in our direct that we were going
13 to point out that we'll raise through cross.

14 So those are the two separate issues. I
15 just didn't want to create the impression that we
16 were stipulating to the second set of staff's
17 witness testimony, because we do have cross.

18 MR. RATLIFF: Well, I think we, if I'm
19 correct, Kerry, we're intending to put on all our
20 witnesses for direct. I mean we aren't --

21 HEARING OFFICER FAY: We're only talking
22 about whether --

23 MR. RATLIFF: -- reciprocal --

24 MS. WILLIS: Yes, I just want to be
25 clear when you said, you know, sum up statements,

1 that I mean we'll be making statements on direct.

2 MR. HARRIS: I'm sorry, with the full
3 disclosure I've confused the issue. I'm sorry,
4 let me back up.

5 The full disclosure portion was that we
6 don't just all go home after at 2:05, or whatever
7 it is. We still have questions for your witness.
8 We'll still go through the regular process of you
9 putting on your direct, us crossing, and everybody
10 else crossing your witness. That's the disclosure
11 part of things, okay.

12 And we're not suggesting in any way that
13 you're limited by any of that. And I'm sorry for
14 creating that confusion.

15 HEARING OFFICER FAY: So the question
16 before everybody is whether or not you all, as
17 various parties, can accept this stipulation,
18 which Ms. Dent raised for her client originally;
19 Mr. Harris has agreed that applicant will forebear
20 putting on the summary of their testimony if it
21 just comes in as prefiled and there would be no
22 cross-examination, no direct examination and no
23 cross-examination. It would just appear in the
24 record as prefiled.

25 Ms. Dent has indicated San Jose is

1 agreeable to that. Mr. Ratliff, what is your
2 position, the staff's --

3 MR. RATLIFF: Ms. Willis.

4 MS. WILLIS: Yes, we can agree to that.

5 HEARING OFFICER FAY: Okay. And CVRP?
6 I know you weren't here when we first discussed
7 this.

8 MR. AJLOUNY: No, it's not CVRP.

9 HEARING OFFICER FAY: I'm sorry, Santa
10 Teresa.

11 MR. AJLOUNY: We wished they were here,
12 but --

13 HEARING OFFICER FAY: Santa Teresa, do
14 you want me to go on and come back to you?

15 MS. CORD: Yeah, I'd better caucus.

16 HEARING OFFICER FAY: Okay. Issa?

17 MR. AJLOUNY: Yes, as I'm a man of my
18 word, I'm willing to stipulate.

19 HEARING OFFICER FAY: Okay. Mr.
20 Williams, how do you feel about it?

21 MR. WILLIAMS: Yes, I'm happy that this
22 material will be admitted without presentation.

23 HEARING OFFICER FAY: Okay. And Mr.
24 Garbett, is he here? No indication.

25 All right. Santa Teresa, do you know?

1 MS. CORD: Can I just ask a question?
2 What does stipulate mean? No, I mean I know it
3 means he won't take the stand and we won't cross-
4 examine --

5 HEARING OFFICER FAY: You're agreeing.

6 MS. CORD: -- but does that mean I agree
7 with everything they're saying?

8 HEARING OFFICER FAY: No, not at all.

9 MS. CORD: Good, okay.

10 HEARING OFFICER FAY: Not at all.

11 MS. CORD: Then I'll be happy to
12 stipulate.

13 HEARING OFFICER FAY: You're just
14 agreeing that the --

15 MS. CORD: I just acknowledge that they
16 presented that?

17 HEARING OFFICER FAY: Essentially you're
18 waiving your right to cross-examine, but they
19 can't go ahead and put on their show on direct,
20 either.

21 So, it's mainly a time savings. The
22 record will only reflect their written testimony
23 as already prefiled. So there won't be the extra
24 discussion.

25 MS. CORD: That's, yeah, I'm perfectly

1 happy to agree to stipulate.

2 HEARING OFFICER FAY: Okay. All right.

3 Well, we have an agreement then.

4 MR. HARRIS: Now that we've got a
5 stipulation, we had two typos that I needed to
6 correct.

7 MS. CORD: Oh, wait, that, no, that
8 invalidates the whole thing.

9 (Laughter.)

10 MR. HARRIS: They're literally typos.
11 I'd better explain those --

12 HEARING OFFICER FAY: And you do need to
13 move your testimony --

14 MR. HARRIS: Right, I'd better --

15 MR. WILLIAMS: Just as a point of
16 courtesy, Mr. Scholz is an intervenor, too.

17 MR. SCHOLZ: I assume I wasn't asked
18 because I'm not on the list to cross-examine.

19 HEARING OFFICER FAY: That's right. And
20 this came out of Mr. Valkosky's hearing order, but
21 I wasn't trying to slight you. It's just
22 apparently you didn't indicate at the time --

23 MR. HARRIS: I'm sorry, they are
24 literally typographical errors, and so let me go
25 to those.

1 On page 42 of our alternatives
2 testimony, the first paragraph, it says figure 7A,
3 it should say figure 6A. There is no figure 7A.
4 So we've simply misnumbered that figure. So the
5 first change would be on page 42, the last full
6 paragraph on page 42, the first sentence it says
7 figure 7A, it ought to say 6A.

8 Then on page 43, which is the next page,
9 top of the page, it says figure 7B; it ought to
10 say figure 6B.

11 And those are the only two corrections
12 we had. Just missed the typewriter by one slot.

13 HEARING OFFICER FAY: Okay. Then do you
14 want to move your testimony?

15 MR. HARRIS: We've got the stipulation
16 of all parties, so I'll go ahead and move our
17 documents then.

18 All right, applicant's attorney has now
19 been straightened out, I'm sorry. The documents
20 that we wanted to move in are AFC and AFC
21 appendix, which is exhibit 1. We'll be moving
22 that. Errata to the AFC volume 1, which is
23 exhibit 2. Responses to CEC data requests, which
24 is exhibit 13. Actually that one was previously
25 moved into evidence yesterday.

1 We have a new document, responses to CEC
2 data requests 13 to 16, 18, 24, and 25, set 1B is
3 a new exhibit. We'd ask that be given a number.

4 HEARING OFFICER FAY: Exhibit 160.

5 MR. HARRIS: Okay. A new document,
6 responses to CEC data requests 3-207 to 3-209, set
7 3A is a new exhibit.

8 HEARING OFFICER FAY: Exhibit 161.

9 MR. HARRIS: Exhibit 29, exhibit 53. A
10 new document, responses to CEC data requests 3-207
11 to 3-209, set 3D is a new exhibit.

12 HEARING OFFICER FAY: Exhibit 162.

13 MS. DENT: -- that's not covered by
14 exhibit 29, I'm sorry, I'm just -- it looks like
15 it presents the same numbering, is it something
16 different?

17 MR. HARRIS: It was modified, that's why
18 I think it's D as opposed to C.

19 MS. DENT: Okay, I'm sorry, didn't mean
20 to interrupt.

21 MR. HARRIS: That's fine. It's a
22 legitimate question. Exhibit 17, exhibit 37,
23 exhibit 39, exhibit 23, exhibit 30, those are our
24 documents for alternatives.

25 And then we have our combined prefiled

1 testimonies which were exhibit 153, exhibit 154,
2 and exhibit 155.

3 And I would move all of those items we
4 just enumerated as a group if that's appropriate.

5 HEARING OFFICER FAY: Is there any
6 objection to receiving those into evidence?
7 Right, I hear none, so moved.

8 MR. HARRIS: We have some housekeeping
9 items from the past, but do you want to do those
10 at the end of the hearing, or do you want to do
11 those now?

12 MR. RATLIFF: I would suggest we do them
13 now because we're waiting for one of the staff
14 witnesses still to arrive, so --

15 MR. HARRIS: Oh, okay.

16 HEARING OFFICER FAY: That's a good
17 practical reason. Yes.

18 MR. HARRIS: There we go. Okay. All
19 right, I think I understand my instructions here.
20 So you have the list before you. Exhibit number
21 4, parts of it were moved in on March 1st. I'd
22 like to move the remainder of that document, so
23 all of exhibit 4 would be admitted.

24 HEARING OFFICER FAY: And what was that
25 supplement regarding?

1 MR. HARRIS: That was supplement B to
2 the AFC regarding apparently mostly air quality
3 and visual supplements.

4 HEARING OFFICER FAY: All right.

5 MR. HARRIS: Do you want to do these as
6 a group, or individually?

7 MR. HARRIS: I think if we do them
8 individually then we'll understand better what's
9 going on.

10 MR. HARRIS: Okay. So the bottomline,
11 parts of exhibit 4 were entered, and then I'd move
12 in the entire exhibit 4.

13 HEARING OFFICER FAY: Okay.

14 MR. HARRIS: The next one is item 21,
15 exhibit 21, CEC data responses set 2C.

16 HEARING OFFICER FAY: All right.

17 MR. HARRIS: Again, I think a portion
18 was entered on January 18. At this point I would
19 move the remainder of the entirety of that
20 document, exhibit 21.

21 Exhibit 26, CEC data response set 1D,
22 portions were -- apparently that's the same
23 document as previously identified as number 104.
24 So I think I would just move both items, it's
25 probably easier than trying to remember

1 everything. So I'd move both item 26 and 104,
2 even though they're the same document, they'll be
3 in the record twice.

4 Then the next one would be item 39,
5 exhibit 39, PSA comment set 5. Again, a portion
6 was moved January 18th. I would move the entire
7 document.

8 Exhibit 47, CEC data responses set 1F.
9 A portion was moved on March 1st. I would move
10 the entire document today.

11 Exhibit 58, CVRP data response set 4B,
12 was previously identified as same as document
13 number 18. I would move both 58 and 18 together,
14 the entirety of those documents.

15 HEARING OFFICER FAY: I'm sorry, did I
16 miss 47? Did you address 47?

17 MR. HARRIS: I thought I did. I'd move
18 item 47 again, part of it was in, 47, so let's
19 move the entirety of 47.

20 HEARING OFFICER FAY: All right.

21 MR. HARRIS: We just did 58 and 59.

22 HEARING OFFICER FAY: Um-hum.

23 MR. HARRIS: 84, PSA comment set 4, this
24 is the same as 105 apparently. So I would move
25 both 84 and 105.

1 Okay, 85, CEC data response set 1G is
2 again the same as number 98. I would move both 85
3 and 98 in their entirety.

4 93 is a memo from Mayor Gonzalez to the
5 City Council. This is the item where Ms. Dent has
6 provided the authenticated document, I believe.
7 And --

8 MS. DENT: I have provided it by fax,
9 but Officer Fay has asked me to bring in clean
10 copies for the record. And for the life of me, I
11 did it way back, and I'll have to try to remember
12 to do it tomorrow.

13 HEARING OFFICER FAY: Okay, you know,
14 I'm sure you did fax it. I just have not been
15 able to put my hands on it, so --

16 MS. DENT: I've got extra ones. They're
17 not in the file I brought with me.

18 HEARING OFFICER FAY: Okay.

19 MR. HARRIS: But as long as there's no
20 objection to moving the document, we'll make sure
21 you get the correct one, or the City will make
22 sure you get the correct one. So I'd move 93.

23 94 is a memo to Linda --

24 MS. DENT: Same thing.

25 MR. HARRIS: Same thing. I would move

1 that one, as well.

2 All the way to the last page now, the
3 very last one on the list you have before you it's
4 listed as 162, but that's incorrect. We would
5 need a -- it's a new document, it's related to the
6 water section, it's the draft storm water
7 pollution prevention plan. It should have been
8 moved in during the water section. So it's CEC
9 data response set 1J, draft storm water pollution
10 permit plan. And I would ask that that be given a
11 number. Pollution prevention plan.

12 HEARING OFFICER FAY: Next number in
13 sequence is 163.

14 MR. HARRIS: Okay. So we would move
15 that one into evidence, as well.

16 And if it's allowed, I would, at this
17 point, make a kind of blanket motion to move in
18 all the documents we've introduced to this point,
19 had marked as evidence.

20 HEARING OFFICER FAY: Most of these
21 documents have been moved in in part, and as I
22 understand it, applicant was withholding moving
23 the entire document in because the unmoved
24 remainder had to do with its alternatives
25 testimony.

1 And so they make that motion now, is
2 there objection? I hear none, so moved.

3 Thank you for clearing that up.

4 And we will reflect this in our next
5 update on the exhibit list. Thank you.

6 All right, I believe at this time we
7 will move to the staff's direct testimony on
8 alternatives.

9 MS. WILLIS: Thank you. Before we call
10 our witnesses, all of our witnesses have been
11 previously sworn and have provided testimony in
12 their respective areas. I would hope we could
13 stipulate to their qualifications as in the
14 prefiled testimony.

15 MR. HARRIS: Yes, we would so stipulate.

16 HEARING OFFICER FAY: Does any party
17 have any objection to stipulating to the
18 qualifications of the witnesses?

19 MS. DENT: No.

20 HEARING OFFICER FAY: All right, I hear
21 no indication.

22 MS. WILLIS: Okay, at this time I'd like
23 to call Gary Walker, Eric Knight, Joe Donaldson,
24 Peter Mackin and Rick Tyler.

25 Dr. Alvin Greenburg will be joining us

1 hopefully shortly.

2 And if you'd like to reswear them in,
3 that's fine. Do you need to reswear them?

4 HEARING OFFICER FAY: No. I'll just
5 remind the panel that you've previously been sworn
6 in this case, and you remain under oath.
7 Whereupon,

8 PETER MACKIN, GARY WALKER, RICK TYLER

9 JOE DONALDSON and ERIC KNIGHT
10 were recalled as witnesses herein, and having been
11 previously duly sworn, were examined and testified
12 further as follows:

13 DIRECT EXAMINATION

14 BY MS. WILLIS:

15 Q I'd like to start with Gary Walker.
16 Could you please state your name for the record?

17 MR. WALKER: My name is Gary D. Walker.

18 MS. WILLIS: And was a statement of your
19 qualifications attached to your testimony?

20 MR. WALKER: Yes, it was.

21 MS. WILLIS: And could you briefly state
22 your education and experience as it pertains to
23 analyzing alternatives? And just a brief
24 sentence.

25 MR. WALKER: Yes, I've performed

1 alternatives analysis for a number of power plant
2 siting cases before the Energy Commission for the
3 staff.

4 MS. WILLIS: Are you sponsoring the
5 testimony entitled alternatives in the final staff
6 assessment that's been previously marked exhibit
7 7?

8 MR. WALKER: Yes.

9 MS. WILLIS: And did you prepare that
10 with input from other technical disciplines?

11 MR. WALKER: Yes, I did.

12 MS. WILLIS: Are you also sponsoring
13 prefiled appendix A, and that has not been marked
14 yet.

15 MR. WALKER: Yes, I am.

16 MS. WILLIS: Mr. Fay, would you like to
17 mark that appendix A at this time, or --

18 HEARING OFFICER FAY: Yes, if you'd like
19 that marked for identification, the next exhibit
20 is 164.

21 MS. WILLIS: Okay, thank you. And did
22 you prepare the rebuttal to the applicant's
23 alternatives testimony?

24 MR. WALKER: Yes.

25 MS. WILLIS: And that will also need to

1 be marked.

2 HEARING OFFICER FAY: Exhibit 165.

3 MS. WILLIS: Do you have any changes to
4 your testimony?

5 MR. WALKER: Yes, I have one change.

6 MS. WILLIS: And what is that?

7 MR. WALKER: That's on table 4 in the
8 alternatives testimony. And that's on page 713.
9 In regard to biological resources the text in the
10 boxes for alternative sites 1 and 2 should be
11 switched with the text for the boxes for sites
12 alternatives 3 and 4.

13 Is that clear to everyone?

14 MS. WILLIS: Did the changes that you
15 just stated change any of your conclusions?

16 MR. WALKER: No.

17 MS. WILLIS: And do the opinions
18 contained in your testimony represent your best
19 professional judgment?

20 MR. WALKER: Yes.

21 MS. WILLIS: Could you please state the
22 purpose of staff's alternatives analysis?

23 MR. WALKER: Staff's alternatives
24 analysis is performed to comply with the
25 California Environmental Quality Act in regard to

1 investigation of whether there are any
2 alternatives to the proposed project that could
3 avoid or substantially reduce the potential
4 significant environmental impacts of the proposed
5 project.

6 MS. WILLIS: Are the alternatives to the
7 proposed project analyzed on the same level of
8 detail as the proposed project?

9 MR. WALKER: No. They're evaluated in
10 lesser detail. But still sufficient to provide
11 the information that the Commission needs to make
12 its decisions regarding alternatives.

13 MS. WILLIS: Would you briefly list
14 staff's alternative site identification process?

15 MR. WALKER: Yes. Staff initially
16 examined an area near the proposed site, and then
17 expanded to include an area that encompasses six
18 substations that advice from the staff's
19 electrical system engineering staff advised us,
20 and as well as the ISO Staff, that the project
21 could be placed near and still obtain most of the
22 objectives of the proposed project.

23 We identified -- we examined also some
24 alternatives that were both identified by the
25 applicant, and identified by parties.

1 Of those 17 sites we found that six
2 potential alternative sites merited further
3 investigation. And those are alternative sites 1
4 through 6.

5 And we did a more detailed analysis of
6 those six sites. I got input from staff on a wide
7 range of environmental topics that was compiled by
8 me into the alternatives testimony

9 MS. WILLIS: Now, I was going to ask
10 you, and state that the applicant had already
11 testified to the alternative sites, but since they
12 haven't, could you please describe the location of
13 the alternative sites 1 through 6?

14 MR. WALKER: Okay, let me see if our
15 visuals are up yet.

16 HEARING OFFICER FAY: Ms. Willis, just
17 want to clarify. Exhibit 165, was that the
18 supplementary testimony or the rebuttal?

19 MS. WILLIS: That's right, it was
20 rebuttal testimony.

21 HEARING OFFICER FAY: Rebuttal. And
22 have you identified the supplementary?

23 MS. WILLIS: That was -- Dr. Greenburg's
24 testimony.

25 HEARING OFFICER FAY: By Alvin

1 Greenburg, yeah.

2 MS. WILLIS: No, we have not, yet.

3 HEARING OFFICER FAY: Okay.

4 MS. WILLIS: Mr. Ratliff will be doing
5 that.

6 HEARING OFFICER FAY: Okay.

7 (Pause.)

8 MR. WALKER: Okay, I will describe sites
9 1 through 6 now. The best maps of each of the
10 sites are actually in the rebuttal testimony. And
11 was that already brought in? Okay.

12 So, Eric, if you would bring up figure
13 3. This is in the rebuttal testimony in the
14 figure set at the end.

15 This particular location is for sites
16 alt 1 and alt 2. Shows them there. And these are
17 to the north of highway 237 and east of Zanker
18 Road in the north San Jose area. They're actually
19 on unincorporated County property right now, but
20 they're adjacent to City property.

21 The two sites were originally identified
22 by the applicant when they proposed the general
23 plan amendments to the City of San Jose for
24 potentially building a power plant on one of those
25 sites.

1 Staff considered them to be viable
2 sites, and so therefore included them in the
3 analysis.

4 MS. WILLIS: Now can you move on to
5 sites 3 and 4?

6 MR. WALKER: Sure. Site 3 is shown in
7 figure 12 in the rebuttal testimony. And it's in
8 the City of Fremont. It's located in an area
9 designated for general industrial use. It's
10 adjacent to the existing Borden Chemical Plant.
11 And it's surrounded by other industrial uses, some
12 of them heavy industrial, some of them light
13 industrial or high tech.

14 Alternative site 4 is shown on figure 24
15 in the rebuttal testimony. This is also in the
16 City of Fremont in an area zoned for general
17 industrial use and designated in the general plan.
18 And is two parcels as shown outlined by the darker
19 black line. It's currently vacant.

20 MS. WILLIS: Now where are sites 5 and
21 6?

22 MR. WALKER: Rebuttal figure 36 shows
23 the location of sites alt 5 and alt 6. They are
24 adjacent to PG&E's Tessla substation in eastern
25 Alameda County. They are rangeland at this time.

1 MS. WILLIS: When you compared the
2 qualifying alternatives sites to the screening
3 criteria, what was the first criteria that you
4 used?

5 MR. WALKER: That they meet most of the
6 project objectives.

7 MS. WILLIS: And what did you determine
8 those objectives to be?

9 MR. WALKER: There were three
10 objectives. One was to be online by the summer
11 peak of 2002, that was in the original analysis.
12 That's no longer feasible, but staff has modified
13 that to be online as soon as possible.

14 The second is to provide Bay Area
15 electric grid reliability benefits.

16 And the third was to mitigate
17 transmission line congestion into the area.

18 MS. WILLIS: So your testimony is that
19 none of the sites can be online by 2002, is that
20 correct?

21 MR. WALKER: Well, no, the testimony --
22 that's true, none of the six can, but the reason
23 that the criteria -- the objective was changed is
24 because even the proposed project cannot be on
25 line by the summer of 2002. So it was adjusted to

1 as soon as possible. The proposed project, by
2 definition, can be online as soon as possible.
3 But the alternatives could not be online that
4 soon.

5 MS. WILLIS: Mr. Mackin will testify
6 later on transmission system benefits for the
7 alternative sites. But can you briefly state will
8 any of the sites provide transmission system
9 benefits?

10 MR. WALKER: Yes, they will.

11 MS. WILLIS: Does that mean all of the
12 sites will?

13 MR. WALKER: Yes, but to differing
14 degrees.

15 MS. WILLIS: Will any of the sites
16 mitigate transmission congestion into the area?

17 MR. WALKER: Sites 1 through 4, but not
18 5 and 6.

19 MS. WILLIS: Can you describe the next
20 criteria used to compare the projects?

21 MR. WALKER: That they would avoid or
22 substantially reduce significant impacts of the
23 proposed project.

24 MS. WILLIS: And what were those
25 significant impacts to the project that you

1 considered in your analysis?

2 MR. WALKER: The list was reduced in the
3 final staff assessment based on additional
4 information gathered between the preliminary and
5 final assessments to the subject areas of land use
6 and visual resources.

7 MS. WILLIS: And briefly, what did you
8 conclude?

9 MR. WALKER: We conclude that there were
10 unmitigable significant land use impacts in regard
11 both to the loss of prime agricultural land and in
12 regard to noncompliance with local plans,
13 specifically the general plan and zoning and the
14 North Coyote Valley master development plan.

15 And in regard to visual, that there was
16 an unmitigable significant project-specific impact
17 in regard to the area of residences along
18 Blanchard Road, key observation point 1. And
19 regard to the overall combined effect visually
20 upon the North Coyote Valley to the character and
21 quality of the area.

22 MS. WILLIS: Did you also look at the
23 feasibility of each site?

24 MR. WALKER: Yes, we did.

25 MS. WILLIS: And what did you look at in

1 terms of feasibility?

2 MR. WALKER: We looked at the following
3 criteria: Site suitability, there needs to be
4 approximately 14 acres for the site. And the
5 shape of the site had to also be adequate for its
6 usability. And the availability of infrastructure
7 that included being within a reasonable distance
8 of the electric transmission system, the natural
9 gas supply system, and water supply.

10 MS. WILLIS: Did you also consider the
11 availability of the sites?

12 MR. WALKER: Yes, we did.

13 MS. WILLIS: And what did you determine
14 for the alternative sites?

15 MR. WALKER: That they were all
16 potentially available, either actually on the
17 market or they appeared to be available for sale
18 when the owners were contacted.

19 MS. WILLIS: How about in terms of
20 feasibility?

21 MR. WALKER: That they were feasible.

22 MS. WILLIS: And did you have any new
23 testimony regarding site alt 3 in regards to size?

24 MR. WALKER: Yes. In trying to
25 reconcile some apparent discrepancies between maps

1 and air photos, I discovered that there are
2 actually two parcels that site alt 3 encompasses,
3 rather than one, as originally thought. So there
4 is actually over 33 acres in the total site. And
5 that one of the sites, which is over 17 acres, is
6 vacant except for an evaporation pond that takes
7 up less than three acres of that site. So there's
8 over 14 acres left of that one parcel that could
9 be used for the project. And there's also some
10 land on the other parcel.

11 MS. WILLIS: Mr. Walker, were you
12 responsible both for the draft preliminary staff
13 assessment and the final staff assessment that is
14 now your testimony today?

15 MR. WALKER: Yes.

16 MS. WILLIS: And can you briefly explain
17 why there were changes from the PSA to the FSA?

18 MR. WALKER: There were changes in
19 regard to the proposed project and the evaluation
20 of the impacts because of additional information
21 gathered and additional mitigation proposed by
22 staff and applicant, and agreed to especially in
23 the areas of biology and there was also a
24 resolution of issues in regard to air quality.

25 It came down to -- that's why those

1 issues were put to bed in terms of significant
2 impacts in the final assessment, and they were not
3 considered significant.

4 MS. WILLIS: I'd like to turn to Mr.
5 Knight. Could you please state your name for the
6 record?

7 MR. KNIGHT: My name is Eric Knight.

8 MS. WILLIS: And did you analyze the
9 impact of the alternative sites on land use in the
10 alternative section of the FSA?

11 MR. KNIGHT: Yes, I did.

12 MS. WILLIS: Did you consider the
13 conversion of prime farmland for each of the
14 alternative sites?

15 MR. KNIGHT: Yes, I did.

16 MS. WILLIS: And what were your
17 conclusions?

18 MR. KNIGHT: Alternative sites 1 and 2
19 would both involve prime farmland and 1 would
20 convert 13 acres, I believe, of prime farmland.
21 And site 2 would convert 30 acres of prime
22 farmland.

23 Sites 3 and 4 are designated as urban or
24 other land on the 1998 important farmland map
25 prepared by the Department of Conservation.

1 Conversion of those lands would not result in a
2 significant environmental impact on ag resources.
3 Both of those parcels are zoned for general
4 industrial uses and not ag.

5 And sites 5 and 6 are designated as
6 grazing land, and also would not constitute a
7 significant impact.

8 MS. WILLIS: In analyzing alternative
9 sites did you also look at the general plans and
10 zoning for each of those sites?

11 MR. KNIGHT: Yes, I did.

12 MS. WILLIS: And what were your
13 conclusions there?

14 MR. KNIGHT: Alternative sites 1 and 2
15 are not -- they're both designated light
16 industrial which would not allow a power plant
17 under the city's general plan. So they would
18 require both a general plan amendment and zoning
19 change to planned development zoning.

20 Sites 3 and 4 are designated for general
21 industrial use. And it appears that there's ample
22 discretion in the City of Fremont's zoning
23 ordinance that would allow for a use such as a
24 power plant.

25 Sites 5 and 6 are designated as large

1 parcel agricultural. And the Alameda County
2 general plan indicates that industrial uses
3 appropriate for remote areas and determined to be
4 compatible with agriculture allowed in large
5 parcel agricultural, general plan designation.
6 So, my determination was that it would not require
7 a general plan amendment at sites 5 and 6, the
8 project would not.

9 Also, conversations with the planning
10 department in Alameda County indicate that power
11 plants are considered utilities which are allowed
12 in any zoning district in Alameda County.

13 MS. WILLIS: On sites 1 and 2 is there a
14 master development plan that covers these areas?

15 MR. KNIGHT: Yes. Sites 1 and 2 are
16 covered within the Alviso master plan.

17 MS. WILLIS: And how does that plan
18 compare to the North Coyote Valley master
19 development plan?

20 MR. KNIGHT: The development standards
21 in that plan are not as restrictive as the Coyote
22 Valley master development plan. And, again, since
23 the general plan designation appropriate for power
24 plants in San Jose is public-quasi-public, there
25 are no off-the-shelf development standards for

1 public-quasi-public use. So the city would
2 identify appropriate development standards based
3 on prevailing plans and the particular site.

4 And looking at the Alviso master plan
5 development standards, plus the industrial
6 development guidelines that the city has prepared,
7 it appears that a power plant at that location
8 would likely meet those development standards, and
9 avoid the inconsistencies with the master
10 development plan for Coyote Valley.

11 MS. WILLIS: Now, on sites 3 and 4 are
12 there any height restrictions?

13 MR. KNIGHT: Yes, there is. There is a
14 height restriction up to 40 feet. The City of
15 Fremont's general plan and zoning ordinance
16 restrict general industrial uses to a building
17 height of 40 feet. However, warehouses are
18 allowed up to 60 feet.

19 There is a policy in the general plan
20 that allows the city to grant additional height if
21 certain criteria are met. One of those is that
22 unique building requirements of a particular
23 industrial use would require to exceed the 40 foot
24 height limitation. The requirement for the HRSG
25 stacks would be 145 feet, may satisfy that

1 requirement. But the nonconformity may or may not
2 be acceptable to the City of Fremont. It would
3 have to be determined.

4 MS. WILLIS: Thank you. I'd like to
5 turn now to Mr Donaldson, and could you please
6 state your name for the record?

7 MR. DONALDSON: Yes, my name is Joe
8 Donaldson.

9 MS. WILLIS: And did you analyze visual
10 impact of the project located in the alternative
11 sites?

12 MR. DONALDSON: Yes, I did.

13 MS. WILLIS: And is your analysis
14 consistent with the analysis you performed on the
15 visual impacts of the proposed project?

16 MR. DONALDSON: Yes, it is.

17 MS. WILLIS: Let's turn first to site
18 alt 1. Did you find a direct significant visual
19 impact from that site?

20 MR. DONALDSON: No.

21 MS. WILLIS: Did you consider the impact
22 to travelers on highway 237?

23 MR. DONALDSON: Yes, I did.

24 MS. WILLIS: And what did you determine?

25 MR. DONALDSON: Determined that even

1 though there are high volumes of travelers along
2 there, lots of people see it, that because there
3 would be a substation there in the foreground
4 view, that the existing environment would be
5 visually degraded by that prior to the
6 construction of the power plant.

7 MS. WILLIS: So the substation would be
8 a prerequisite to the power plant?

9 MR. DONALDSON: Yes. We have to
10 consider the substation as actually part of the
11 existing environment because as I understand it,
12 the power plant would not be built unless the
13 substation is there.

14 Therefore we looked at the existing
15 environment of the landscape there as including
16 the substation.

17 MS. WILLIS: Did you consider the impact
18 to travelers along Zanker Road?

19 MR. DONALDSON: Yes, I did.

20 MS. WILLIS: And what did you determine?

21 MR. DONALDSON: Determined pretty much
22 the same thing, that the far less volume of
23 traffic along there, and a different environment
24 overall, however the substation would dominate the
25 views of the existing environment. That's what my

1 analysis considered.

2 MS. WILLIS: Have you traveled along
3 Zanker Road to the San Francisco Bay National
4 Wildlife Area Environmental Education Center?

5 MR. DONALDSON: I have traveled along
6 Zanker Road up into Alviso and that area. I
7 haven't actually gone all the way to the
8 Environmental Education Center, but I've traveled
9 up and down Zanker Road where there are views
10 anywhere within the foreground or middle-ground
11 zones there.

12 MS. WILLIS: And could you please
13 describe the visual quality of that route?

14 MR. DONALDSON: Yeah, the route actually
15 runs along, there's a number of elements that
16 actually degrade the landscape from being a
17 pristine landscape. There are some rural views in
18 there. However, there are a number of things like
19 the wastewater treatment plant, a dump, and a
20 number of fences and other things that really
21 reduce the intactness of the views along Zanker
22 Road.

23 MS. WILLIS: Did you analyze the visual
24 impact from the Bay Trail?

25 MR. DONALDSON: Yes. Actually the

1 future proposed Bay Trail, and we, again, being
2 consistent with other analyses, it's not part of
3 the existing environment. We don't know exactly
4 where that trail would be or what it's alignment
5 would, in fact, be, even though it is planned to
6 be there.

7 Because of this it is of concern;
8 however, given CEQA and how it lays out the
9 baseline conditions, could not find either whether
10 it's significant or less significant because it's
11 a future use and not part of the existing
12 environment. Similar to the Fisher Creek Trail
13 and the analysis that we did for the Metcalf site.

14 MS. WILLIS: Let's go to alternative
15 site 2. Did you determine there would be any
16 direct impact from a power plant, a visual impact
17 there?

18 MR. DONALDSON: I'm sorry, could you
19 repeat that?

20 MS. WILLIS: For alternative site 2, did
21 you determine a direct visual impact?

22 MR. DONALDSON: There was no direct
23 impact for site 2.

24 MS. WILLIS: And why not?

25 MR. DONALDSON: Really the same reasons

1 I stated for 1. Two would actually be closer to
2 the road than -- excuse me, to highway 237 than
3 highway 1, but again, the existing condition, the
4 baseline condition would include the substation
5 that would be part of that environment. And
6 therefore, even though there'd be high volumes of
7 people traveling along highway 237, it appears
8 that the substation would, in fact, be the element
9 that would reduce that visual quality of that
10 environment.

11 Also, and I failed to point this out
12 when talking about alternative 1, but I'm assuming
13 in this analysis that landscape elements,
14 landscaping and landscape screening would be a
15 significant part of this project, or the proposed
16 project, as the applicant has done on other
17 projects, including Metcalf. There was offsite
18 landscaping and so on.

19 So, given those elements and assuming
20 that there is landscaping that does screen and
21 help blend the power plant with its environment,
22 and given the substation that would be part of
23 that existing environment, all those elements in
24 combination say that the visual quality would not
25 be reduced substantially. It would be affected,

1 but it would not be reduced below a level of
2 significance, since you're already starting out
3 with a visual quality that would be considered low
4 to moderately low.

5 MS. WILLIS: Did you determine there
6 would be any cumulative impacts from sites alt 1
7 and 2?

8 MR. DONALDSON: Yes, actually there
9 would be cumulative impacts for sites alt 1 and 2.
10 And the reason for that -- would you like me to --

11 MS. WILLIS: Please.

12 MR. DONALDSON: Okay, didn't want to
13 jump ahead. The reason for that would be that
14 again the substation that's part of the baseline
15 condition, the substation would undoubtedly have
16 significant visual impacts in that environment.

17 With that being the existing baseline
18 condition, that would provide the significant
19 impacts. And certainly adding, you know, another
20 element in combination with that, adjacent to
21 that, would contribute to those impacts.

22 MS. WILLIS: Let's turn to site alt 3.
23 Are there any direct visual impacts from that
24 site?

25 MR. DONALDSON: No, I did not find any

1 direct visual impacts for site 3.

2 MS. WILLIS: Page 42 of the applicant's
3 testimony, there's a discussion of views from four
4 townhouses. Could you please comment on the
5 visibility of the site from that view?

6 MR. DONALDSON: Yes. Do you want to
7 refer to the figures, or shall I just verbally
8 comment?

9 MS. WILLIS: If you'd like to refer to
10 the figures I think we're having some computer
11 difficulties.

12 MR. DONALDSON: Do people have copies of
13 the figures?

14 MS. WILLIS: Yes, they do.

15 MR. DONALDSON: If you would like I can
16 quickly, I think, verbally describe these. There
17 are several figures that were included as part of
18 the rebuttal testimony for site alt 3. And those
19 are figures 13, which show the existing views from
20 the neighborhood towards the power plant for site
21 alt 3.

22 There's another simulation provided by
23 the applicant that shows the power plant, it looks
24 like the Metcalf plant, imposed there as part of
25 the visual simulation.

1 There are a number of following figures
2 that show the -- well, in fact, figure 17, I don't
3 know if you want to try to follow this or not --
4 but figure 17 shows pretty significant mature
5 landscaping that at, you know, well a pretty major
6 way reduces the views across in that direction.

7 MS. WILLIS: Just one moment. Figure 17
8 would be looking at the townhouses, is that
9 correct?

10 MR. DONALDSON: That's looking actually
11 from just across the road there.

12 MS. WILLIS: The trees are covering the
13 townhouses?

14 MR. DONALDSON: Yes, correct, the trees
15 are, in fact, screening many of the views from the
16 townhouses. And it's recognized that, you know,
17 it's very likely that there are views across, you
18 know, from some of those windows on the upper
19 storeys in particular, that would have views
20 towards the power plant. I'm not trying to say
21 it's a 100 percent screening at all along there.
22 And I believe those trees are primarily deciduous,
23 though I actually am not sure if they're deciduous
24 or not. These photographs were taken when the
25 leaves were out.

1 However, if you look at the preceding
2 figure, figure 16, you can see some of the other
3 elements that, industrial elements that are
4 already existing adjacent to the site where the
5 power plant would be constructed.

6 And if we jump ahead to figure 19 you
7 can see the visual simulation that the Energy
8 Commission Staff prepared, which shows one tree
9 placed to screen that particular view of the
10 applicant's visual simulation.

11 Based on all of these factors it seems
12 very reasonable to consider that some actually
13 fairly minor landscaping there would, in fact,
14 either screen views or all together block those
15 views of a power plant. And also the power plant
16 could probably be, based on my assessment, there's
17 enough room to site it effectively, so that you
18 really reduce those impacts, as well.

19 MS. WILLIS: Thank you. Let's turn to
20 site alt 4. Are there any direct visual impacts
21 from that site?

22 MR. DONALDSON: No, I did not find any
23 direct visual impacts for site alt 4.

24 MS. WILLIS: Are there homes in the
25 area?

1 MR. DONALDSON: Yes, there are homes in
2 the area.

3 MS. WILLIS: And can you please discuss
4 that?

5 MR. DONALDSON: Yeah, there are several
6 houses located within viewing range, or view
7 zones. My understanding from going out there and
8 looking at those views is that there is, again, a
9 fair bit of a number of elements of industrial
10 character and so on that are existing within the
11 field of view from those residences.

12 Rather than going through each of the
13 figures like I did before, there are photographs
14 in here in your packet of information that
15 actually show those views from those residences
16 that are in the area. And some of the other
17 elements that are within the field of view from
18 there.

19 Given that the visual quality has
20 already been substantially reduced by the existing
21 baseline conditions, and given that the power
22 plant, I believe, can be sited so that it doesn't
23 create a significant impact.

24 MS. WILLIS: And I believe that -- is
25 that figure 31 that you're referring to for the

1 view from the homes?

2 MR. DONALDSON: Let me just take a quick
3 look here. Yes, figure 31 does show a view
4 looking northwest across from the South Grimmer
5 Road toward the site. I believe that's from the
6 nearest residences on Lopes or Lopes Court.

7 MS. WILLIS: Did you determine there
8 would be any cumulative visual impacts from sites
9 alt 3 and 4?

10 MR. DONALDSON: No, did not find any,
11 that there would be cumulative impacts because of
12 the lack of other projects nearby that would add
13 to that cumulative effect.

14 MS. WILLIS: And finally, did you
15 determine there would be any direct or cumulative
16 visual impacts for sites 5 and 6?

17 MR. DONALDSON: No, not for 5 and 6,
18 either.

19 MS. WILLIS: I'm going to move on to Mr.
20 Mackin. Could you please state your name for the
21 record?

22 MR. MACKIN: My name is Peter Mackin.

23 MS. WILLIS: And did you provide the
24 analysis of local system benefits for the
25 alternative section of the FSA?

1 MR. MACKIN: Yes, I did.

2 MS. WILLIS: Did you analyze system loss
3 savings comparing MEC to the alternative sites?

4 MR. MACKIN: Yes, I did.

5 MS. WILLIS: And can you tell us where
6 that would be in the FSA?

7 MR. MACKIN: I believe that's table 3 on
8 page 711, and alternatives 1 and 2, the loss
9 savings were better than the proposed site.
10 Alternatives 3 and 4 were also better. But
11 alternatives 5 and 6 were not as good.

12 MS. WILLIS: Did you analyze other
13 performance measures?

14 MR. MACKIN: Yes, I did.

15 MS. WILLIS: And generally what did your
16 analysis show for the sites 1 through 6?

17 MR. MACKIN: Well, the analysis was
18 summarized in table 2. In general, the analysis
19 revealed that alternative sites 1, 2, 3 and 4
20 would be better than or essentially the same as
21 the proposed project for each of the performance
22 measures. And somewhat better overall. But
23 greater interconnection costs for those
24 alternative sites may be off set by the
25 substantially greater transmission loss

1 reductions.

2 Alternatives 5 and 6 are worse, or
3 somewhat worse than the proposed project for each
4 of the performance measures, and are somewhat
5 worse overall.

6 MS. WILLIS: Is there anything else that
7 should be considered?

8 MR. MACKIN: Well, one thing that was
9 considered in alternatives 2, we looked at
10 interconnection costs and the initial analysis
11 that was provided in the alternative section dealt
12 only with the cost to interconnect the proposed
13 site to the closest substation, and so that was a
14 rough cost based on mileage.

15 There's one other consideration that was
16 not considered initially but that should be
17 considered, and that is that either alternatives 1
18 and 2 or 3 and 4 are all going to be connecting
19 electrically fairly close to Newark substation.
20 And Newark substation is an old substation. There
21 are a lot of circuit breakers that are old. The
22 new power plant in that area may increase the
23 fault duty on those circuit breakers and require
24 replacement.

25 We did a rough estimate of the potential

1 cost to replace those breakers. If all breakers
2 had to be replaced it could cost up to \$42
3 million.

4 MS. WILLIS: Thank you. Does that
5 conclude your testimony?

6 MR. MACKIN: Yes, it does.

7 MS. WILLIS: I'd like to turn it over
8 now to Mr. Ratliff for the final witness.

9 MR. RATLIFF: In the division of labor
10 of counsel here, I have the remaining two
11 witnesses, but only one has shown, so.

12 BY MR. RATLIFF:

13 Q Mr. Tyler, you've been sworn previously,
14 have you not?

15 MR. TYLER: That's correct.

16 MR. RATLIFF: Did you prepare two
17 paragraphs on page 764 of the staff's alternatives
18 analysis?

19 MR. TYLER: Yes, actually I think
20 there's three of them there, yeah.

21 MR. RATLIFF: Two in the original
22 version, three have been --

23 MR. TYLER: Right.

24 MR. RATLIFF: -- modified. And you
25 filed supplemental testimony in the form of three

1 paragraphs revising those prior two paragraphs, is
2 that correct?

3 MR. TYLER: That's correct.

4 MR. RATLIFF: And you did that in
5 collaboration with Dr. Alvin Greenburg, is that
6 correct?

7 MR. TYLER: That's correct.

8 MR. RATLIFF: Is that testimony true and
9 correct to the best of your knowledge and belief?

10 MR. TYLER: Yes, it is.

11 MR. RATLIFF: Now, just by way of
12 background for your testimony, are you familiar
13 generally with the testimony of Peter Mackin and
14 Al McCuen that has already been provided today and
15 yesterday?

16 MR. TYLER: Yes, I am.

17 MR. RATLIFF: Specifically, are you
18 familiar with the part of the LSE testimony
19 discussing reliability of benefits associated with
20 new local generation in the area where the project
21 is to be located?

22 MR. TYLER: Yes, I am.

23 MR. RATLIFF: And the testimony that you
24 provided basically had to do with health risk
25 assessment, is that correct?

1 MR. TYLER: That's correct.

2 MR. RATLIFF: And I should have probably
3 discussed your roles and responsibilities for the
4 staff, but can you describe those very briefly in
5 terms of what your duties are?

6 MR. TYLER: Currently I deal
7 predominately with risks associated with process
8 equipment, accidental releases of hazardous
9 materials. Prior to that, I, for many years,
10 dealt with health risk assessments, quantitative
11 public health risk assessments regarding emissions
12 from power plants of noncriteria pollutants. And
13 that's the sort of thing that I normally do.

14 MR. RATLIFF: So, would it be fair to
15 say that you are generally familiar with public
16 health issues, public health concepts and you've
17 testified to these issues in the past?

18 MR. TYLER: That's correct.

19 MR. RATLIFF: Generally speaking, what
20 kinds of public health risks are we talking about
21 when electricity supply is disrupted?

22 MR. TYLER: There's three general risks
23 that I identified. The first one deals with the
24 alternatives types of generation that would be
25 used in the event that we do not have normally

1 operating power plants, which would be backup
2 generators. And equipment that is fired on fuels
3 that aren't as clean as natural gas, and emit
4 higher emissions of noncriteria pollutants and
5 criteria pollutants, as well.

6 Those types of risks have also been
7 identified by the Bay Area AQMD in previous
8 testimony.

9 Another type of risk which occurs is --

10 MR. AJLOUNY: Excuse me, is that in -- I
11 can't find that in his direct testimony. Am I
12 missing a page or something? About what he's
13 testifying right now?

14 MR. RATLIFF: I don't know if you're
15 missing a page or not.

16 MR. AJLOUNY: Is that in his direct
17 testimony, then? Maybe it's a proper question.

18 MR. RATLIFF: I don't understand. Are
19 you objecting? And if so, what is your objection?

20 MR. AJLOUNY: Well, I guess --

21 MS. CORD: We'd like to know --

22 MR. AJLOUNY: -- maybe the formal words
23 are I object because that's not in his direct
24 testimony, the written testimony that I have.

25 MR. RATLIFF: Mr. Tyler's testimony was

1 clearly directed to public health issues that are
2 associated with disruption of electricity. I
3 think he's passing over an issue right now that
4 has already been testified to by the Bay Area
5 District. I think if he's allowed to proceed
6 we'll actually get to where he's going.

7 HEARING OFFICER FAY: Okay.

8 MS. CORD: Is it in the written
9 testimony somewhere?

10 MR. RATLIFF: Yes, it is.

11 MS. CORD: Can you tell me where?

12 MR. AJLOUNY: Yeah, I'm just asking
13 where.

14 MS. DENT: It is not -- it is not in Mr.
15 Tyler's written testimony that I can see. I mean,
16 the supplementary testimony of Rick Tyler and Dr.
17 Alvin Greenburg that was handed out looks like it
18 only has to do with air conditioning to me, but.

19 HEARING OFFICER FAY: Well, Mr. Tyler
20 had other testimony, as well. Counsel, can you --

21 MR. RATLIFF: Can we proceed, and if
22 there's a motion to strike subsequently, then we
23 can go to that. I think it would be most
24 expeditious just to go ahead and --

25 HEARING OFFICER FAY: All right, we're

1 going to --

2 MS. CORD: Well, he just said it's in
3 here, could he tell us where?

4 HEARING OFFICER FAY: -- withhold
5 ruling, -- we're going to withhold ruling at this
6 time, and let him see if he can tie it in.

7 MS. CORD: He just said it's in here.
8 Can he tell us where?

9 MS. DENT: The question is whether or
10 not the testimony was prefiled, not whether he can
11 tie it in to something. Can he just point to us
12 where it is in the prefiled testimony?

13 I mean, it may be there. It's not in --

14 HEARING OFFICER FAY: Mr. Tyler.

15 MR. TYLER: I believe it's in the air
16 quality testimony about the Bay Area AQMD.

17 MR. AJLOUNY: So I object to the fact
18 that it's in the air quality topic and we've
19 already passed that up.

20 MS. DENT: And I'd object on the basis
21 that it's not the witness' prefiled testimony.

22 HEARING OFFICER FAY: Well, counsel, do
23 you have a response?

24 MR. RATLIFF: Well, the air quality
25 issues have, in fact, been testified to. That is

1 not really the point of Mr. Tyler's testimony. So
2 if we could just move on to the other associated
3 public health issues, I think we could very
4 quickly get to Mr. Tyler's principal point here.

5 HEARING OFFICER FAY: So Mr. Tyler's not
6 testifying as to the air quality matters?

7 MR. RATLIFF: No, that's not the point
8 of his testimony.

9 HEARING OFFICER FAY: All right.

10 MR. RATLIFF: And there's already, I
11 think, a fairly well developed record on that
12 point.

13 HEARING OFFICER FAY: Okay, --

14 MS. CORD: Can we clarify this is not in
15 his prefiled testimony? Is that right?

16 MR. RATLIFF: Well, I don't -- hang on a
17 minute. Having indications that it is, but --
18 well, certainly the reference to air quality
19 impacts is on page 764, yes.

20 HEARING OFFICER FAY: All right, then
21 the objection is overruled --

22 MS. DENT: That's not Mr. Tyler's
23 testimony. That's the testimony of Mr. Walker.

24 MS. CORD: Is it on this that we got in
25 the mail?

1 MS. DENT: The testimony of Mr. Walker,
2 -- the testimony of Mr. Tyler is --

3 MS. WILLIS: Excuse me, --

4 MS. DENT: -- the supplementary
5 testimony of --

6 HEARING OFFICER FAY: No, --

7 MS. WILLIS: Mr. Fay, may I?

8 HEARING OFFICER FAY: Mr. Ratliff,
9 didn't you indicate that Mr. Tyler participated in
10 the staff's --

11 MR. RATLIFF: Yes.

12 HEARING OFFICER FAY: -- alternative FSA
13 testimony?

14 MR. RATLIFF: Yes.

15 MS. WILLIS: As did all of our witnesses
16 here today.

17 HEARING OFFICER FAY: All right. The
18 panel participated in that testimony.

19 MR. RATLIFF: Yes, I think the
20 intervenors need to understand that this is a
21 summary piece of testimony that involves all of
22 the technical areas of the staff. That's why we
23 have a large panel here today. And certainly air
24 quality is one of those areas, and is mentioned in
25 the alternatives testimony.

1 MS. CORD: Could I ask for a point of
2 clarification? Why did we get this from him if
3 this is not what he's talking about?

4 I mean, isn't that the purpose of this?

5 MR. RATLIFF: Well, I think we'd
6 actually get to the purpose of the testimony --

7 MS. CORD: I was asking the Committee
8 really.

9 MR. RATLIFF: -- if you would just allow
10 us to, actually.

11 HEARING OFFICER FAY: Yeah, they're just
12 not that far yet.

13 MS. CORD: They're not that far to
14 answering my question of why we have testimony and
15 it's not in that testimony? Why did they mail
16 this to us if this is not what he's going to be
17 talking about?

18 HEARING OFFICER FAY: I think the
19 objection was raised about material referred to in
20 the main body of the staff FSA testimony. Am I
21 correct, counsel?

22 MR. RATLIFF: That's correct.

23 HEARING OFFICER FAY: All right.

24 MR. RATLIFF: Can you proceed, Mr.
25 Tyler?

1 MR. TYLER: Yes. The second type of
2 risk to the public which is identified in the
3 second paragraph, deals with various types of
4 injuries, falls, people being hit in crosswalks
5 when the traffic lights don't work, accidents
6 caused from traffic and so on.

7 But clearly the most serious risk to the
8 public is associated with mortality from exposure
9 to heat in the absence of air conditioning. And
10 that is the primary emphasis of this part of the
11 testimony.

12 MR. RATLIFF: In your opinion and based
13 on the research that you've done, is there a clear
14 relationship between heat and mortality?

15 MR. TYLER: Yes, there is. There's a
16 rapid increase in mortality at temperatures above
17 95 degrees and above, and increasing with age of
18 individuals exposed to those temperatures.

19 MR. RATLIFF: Is this relationship
20 between heat and mortality, in your view, masked
21 by air conditioning?

22 MR. TYLER: Yes, it is, particularly in
23 California. One study, probably the most
24 important one that I looked at, evaluated the
25 effects of the difference in mortality between

1 heat waves that occurred in 1955 and 1963.

2 That's very important because in the Los
3 Angeles area where this study was done, there was
4 significant implementation of air conditioning in
5 homes between the 1955 and 1963 events.

6 The author of that study determined, or
7 estimated that the net result of air conditioning
8 implementation in the Los Angeles area saved over
9 800 lives as a result of it being available to the
10 public.

11 And that obviously would not be
12 available in the event that we d not have power.

13 MR. RATLIFF: In your opinion is there a
14 higher risk of catastrophic transmission failure
15 or load shedding of residential load during
16 periods of high heat?

17 MR. TYLER: Yes, I --

18 MR. AJLOUNY: Objection, he doesn't have
19 the technical expertise, at least in his
20 background, of local system effects, you know.

21 MR. TYLER: I did reference studies
22 by --

23 MR. AJLOUNY: Well, did I make sense in
24 my objection? I mean, --

25 HEARING OFFICER FAY: Yes, it does.

1 Counsel, why don't you respond?

2 MR. RATLIFF: Yes, the witness has
3 previously testified that he is familiar with the
4 testimony of Mr. Mackin and Mr. McCuen, and that
5 he has actually worked with Mr. Mackin on this
6 testimony. He has consulted with him about the
7 reliability of the system and the kinds of outages
8 that may occur.

9 So, I think he is entirely qualified to
10 answer the question.

11 MR. AJLOUNY: And Mr. Mackin's here.

12 MR. RATLIFF: If there is any question
13 about that, there is -- I should add, there is, I
14 think, a great deal of testimony already offered
15 in this proceeding about the relationship between
16 this project and the transmission system
17 reliability.

18 And so I think that if the objection is
19 that the testimony is not relevant, it is
20 certainly relevant if there is, in fact,
21 transmission reliability problems.

22 HEARING OFFICER FAY: Well, I think --

23 MR. AJLOUNY: He's just wasting our
24 time.

25 HEARING OFFICER FAY: -- Issa was

1 challenging Mr. Tyler's qualifications. And,
2 frankly, we are typically very liberal with
3 intervenors on expert testimony. And while we
4 have a higher standard for the applicant's experts
5 and those of the staff, we know the expertise of
6 the panel before us. Mr. Tyler has analyzed a
7 broad range of health and hazard effects. And
8 sometimes that goes beyond his narrow expertise
9 into taking into account the expertise of other
10 people, such as this panel.

11 So I think I'd like to recommend you
12 forebear your objections, since we do have them
13 testifying as a panel. And apparently they have
14 integrated their analysis.

15 MR. AJLOUNY: Just for the record,
16 that's the point I'm trying to make. Peter Mackin
17 is sitting right next to him. I think if Peter
18 Mackin is the expert, he should be the one
19 answering the questions in that area.

20 MR. TYLER: I also provided a specific
21 reference to system effects with regard to
22 islanding, cascading outages and so on that were
23 provided by the U.S. Congress Office of Technology
24 Assessment.

25 MR. AJLOUNY: Good.

1 HEARING OFFICER FAY: Okay, --

2 MR. TYLER: Dated June --

3 HEARING OFFICER FAY: It's not time for
4 cross-examination now --

5 MR. RATLIFF: And I might just add that
6 if Issa or other intervenors wish, of course, they
7 can direct questions to Mr. Mackin on this point,
8 as well, because --

9 MR. AJLOUNY: Oh, no, I'm --

10 MR. RATLIFF: -- you're right, --

11 MR. AJLOUNY: -- giving you an
12 opportunity and I'm going to cross-examine this
13 gentleman who's acting like the expert in these
14 areas.

15 MR. RATLIFF: Do you have the question
16 in mind, Mr. Tyler? My last question?

17 MR. TYLER: No. Would you go ahead and
18 restate it, please?

19 HEARING OFFICER FAY: Why don't you
20 repeat the question?

21 MR. RATLIFF: Is there a higher risk of
22 load shedding or catastrophic transmission outages
23 during the hottest days of the year?

24 MR. TYLER: Yes, there is. And a review
25 of outages that do occur would clearly indicate

1 that high system loads and system outages occur,
2 they're not independent events, that high levels
3 of demand actually increase the risk and may even
4 precipitate such events. And frequently they do
5 occur at the same time.

6 MR. RATLIFF: And have you discussed
7 with Mr. Mackin any of the identified risk
8 scenarios for catastrophic or load shed in the San
9 Jose area?

10 MR. TYLER: Yes, I have.

11 MR. RATLIFF: Could you describe that?

12 MR. TYLER: We looked at various types
13 of N-1, N-2 events that indicated that there would
14 be risk of such events occurring, and that the
15 Metcalf facility would allow a significant number
16 of individuals in the public, and a significant
17 geographic area to still be provided power in the
18 event that those types of events occurred.

19 MR. RATLIFF: If there is significant
20 load shedding or is there is a catastrophic
21 outage, or even just a prolonged load shed event,
22 is it your opinion, based on the studies that
23 you've seen, that there would be, on the hottest
24 days of the year, results in mortality?

25 MR. TYLER: Yes. I do believe there

1 would be, and I even believe, although I couldn't
2 specifically quantify it, that there have been
3 periods that identified, even in the San Jose
4 area, and surrounding communities, that clearly
5 indicate the potential for fatalities in the event
6 of loss of power.

7 MR. RATLIFF: Would the project, in your
8 opinion, limit the necessity for load shedding in
9 the San Jose area and the public health impacts
10 associated with it?

11 MR. TYLER: Yes, I believe that the
12 risks are probably not completely quantifiable,
13 but certainly there's less risk of outage with the
14 MEC facility than there is without it.

15 MR. RATLIFF: Would the project, in your
16 opinion, reduce the likelihood of such outages?

17 MR. TYLER: Yes, I believe it would.

18 MR. RATLIFF: Would it, in your opinion,
19 mitigate the risk of such outages that did occur?

20 MR. TYLER: Yes, I believe it would.
21 There would still, I want to make it very clear
22 that there are still fatalities even with
23 availability of electrical energy, but that the
24 number of fatalities would significantly increase
25 in the absence of air conditioning for sensitive

1 individuals.

2 MR. RATLIFF: That concludes my direct.

3 HEARING OFFICER FAY: All right.

4 Anything further, then, from the staff?

5 MS. WILLIS: No. At this time we'd like
6 to open it up for cross-examination.

7 HEARING OFFICER FAY: Mr. Ratliff, did
8 you want to identify Mr. Tyler and Dr. Greenburg's
9 testimony?

10 MR. RATLIFF: Yes, I'm not sure where we
11 are in the sequence, but I think we should just
12 identify it as supplemental testimony.

13 HEARING OFFICER FAY: I believe that is
14 exhibit 166.

15 Is the panel available for cross-
16 examination?

17 MR. RATLIFF: Yes, it is.

18 HEARING OFFICER FAY: All right. As we
19 indicated, we're going to reverse our order and so
20 that those who were last shall be first. Mr.
21 Williams.

22 MR. AJLOUNY: Mr. Fay, we talked within
23 ourselves, and we'd like the applicant to go
24 first, and then I was going to go second. And you
25 can confirm that -- or, I'm sorry, applicant can

1 go first, San Jose, and then myself, and then
2 follow that. You can confirm that with everyone
3 else.

4 HEARING OFFICER FAY: All right, --

5 MR. WILLIAMS: That's certainly
6 acceptable to me, since I got to go first once --
7 (Parties speaking simultaneously.)

8 MS. DENT: That was my understanding, as
9 well.

10 HEARING OFFICER FAY: Any objection to
11 that?

12 (Chorus of noes.)

13 HEARING OFFICER FAY: Okay, that --

14 MR. HARRIS: I do, I actually --

15 HEARING OFFICER FAY: That may inform
16 the record well.

17 MR. HARRIS: I have an objection, or a
18 consideration. I noted during the stipulation
19 that I was going to need some additional time for
20 cross-examination since we'd stipulated on our
21 direct.

22 We're still in the process of putting
23 that cross-examination together. And I'm going to
24 need some time to do that. And so I was not
25 planning to go first, so I could get my cross-

1 examination in order --

2 MR. AJLOUNY: That was not stipulated.

3 MS. DENT: We can all say the same

4 thing.

5 MR. HARRIS: I said that on the record,

6 though. I absolutely on the record stated --

7 MS. DENT: -- saying --

8 MR. HARRIS: -- that I was going to

9 need --

10 MS. DENT: -- saying prepared to do the

11 cross-examination --

12 MR. HARRIS: Molli, I said I was going

13 to need additional time for cross-examination.

14 Read the transcript.

15 MS. DENT: Fine, -- take all the time

16 you want --

17 (Parties speaking simultaneously.)

18 HEARING OFFICER FAY: Let's go off the

19 record.

20 (Off the record.)

21 HEARING OFFICER FAY: Mr. Harris.

22 MR. HARRIS: Yes. Shall I proceed? I

23 want to actually say hello to the panel and

24 welcome you all to the natural service area for

25 the Metcalf substation. Glad to have you here.

1 (Laughter.)

2 MR. HARRIS: It's an LSE joke if you
3 weren't here, so don't worry about it.

4 CROSS-EXAMINATION

5 BY MR. HARRIS:

6 Q I actually have one question for Eric
7 Knight, although I may catch him by a bit of
8 surprise. I want to talk about sites 5 and 6, and
9 you noted that those sites are zoned agricultural,
10 is that correct?

11 MR. KNIGHT: They are zoned -- they're
12 designated as large parcel agriculture on the
13 general plan.

14 MR. HARRIS: Okay, so my question, then,
15 Eric, is sites 5 and 6 also then involve the
16 conversion of farmland, is that correct?

17 MR. KNIGHT: On the important farmland
18 map prepared by the Department of Conservation
19 those sites are designated as grazing land on the
20 important farmland map. So, in terms of an impact
21 under CEQA, as CEQA defines it, impact on
22 agricultural resources, it asks whether a project
23 would convert prime farmland, farmland importance,
24 or unique farmland.

25 And the grazing designation is neither

1 one of those.

2 MR. HARRIS: Okay, thank you. I want to
3 go on to Mr. Mackin now, please. You mentioned, I
4 think you said for alternative sites 3 and 4
5 first. I'll jump around between sites. Go to 3
6 and 4, if you will.

7 You talked about the cost of
8 interconnection, and what was the order of
9 magnitude for the breaker costs that you looked at
10 for sites 3 and 4? And, again, I understand it's
11 a rough cut, but --

12 MR. MACKIN: Right, what we stated was
13 that if you had to replace all of the older
14 breakers at Newark, that would be on the 115 kV
15 and the 230 kV busses, magnitude was around \$42
16 million.

17 MR. HARRIS: Okay, --

18 MR. MACKIN: That was just breaker
19 replacement. If there were other facilities
20 needed, that was not included.

21 MR. HARRIS: Okay, so that \$42 million
22 is excluding those other possible facilities?

23 MR. MACKIN: Yes.

24 MR. HARRIS: Thank you. Looking at the
25 project, the Metcalf project, compared to

1 alternative sites 1 through 4, now so you have all
2 four of those in mind, I think there's an
3 impression created that they are kind of all
4 fungible, that a power plant at Metcalf has the
5 exact same benefits as a power plant at 1 and 2,
6 or a power plant at 3 or 4.

7 But my understanding is the exact
8 benefits that we're talking about for the Metcalf
9 project are not replicated at each of those sites,
10 is that correct?

11 MR. MACKIN: We're talking the
12 electrical benefits, right?

13 MR. HARRIS: Electrical benefits, yes.

14 MR. MACKIN: Right, they're not
15 identical benefits. In other words, you could
16 have a plant at Metcalf and an additional plant at
17 sites say 3 or 4, and you would have additional
18 benefits from both plants that would not, you
19 know, --

20 MR. HARRIS: I think I'm understanding.

21 MR. MACKIN: Okay.

22 MR. HARRIS: So there are unique
23 benefits at the Metcalf site; there's unique
24 benefits at alt 1 and 2, unique benefits at alt 3
25 and 4, so they're not exactly the same things, is

1 that correct?

2 MR. MACKIN: Right. Correct.

3 MR. HARRIS: I wanted to clear that up.

4 In terms of sites 1 and 4, the benefits they have
5 relative to the Metcalf project, I'm focusing for
6 a minute on Moss Landing Power Plant, and the
7 thermal overload issues there.

8 Alternative sites 1 through 4 do not
9 solve the Moss Landing 230 kV overload problems,
10 is that correct?

11 MR. MACKIN: Well, I guess --

12 MR. HARRIS: One and two, I'm sorry, did
13 I say 1 and 4? One and 2.

14 MR. MACKIN: Right. I guess for the
15 purposes of the alternatives analysis we really
16 didn't look at that particular problem. I would
17 estimate that they probably would not, but since I
18 didn't do an analysis I really can't say for sure.

19 It would definitely be the benefit at
20 alternative sites 1, 2, 3 and 4 on the Moss
21 Landing problem would be much less than the
22 Metcalf site.

23 MR. HARRIS: And that's basically what
24 I'm getting at. That the benefits are unique and
25 they're different in terms of the relative

1 impacts. The benefits provided by Metcalf for
2 Moss Landing versus the benefits provided by 1 and
3 2. That's where I'm going with this, I guess.
4 And so I was kind of hoping you'd recall back to
5 maybe some of the things that happened say earlier
6 today.

7 But my recollection is that Metcalf
8 solves the Metcalf 230 -- excuse me, 500 to 230 kV
9 transformer overload, and that alternatives 1 and
10 2 did not, is that your understanding as well?

11 MR. MACKIN: Well, I guess again,
12 unfortunately we didn't look at it in that detail.
13 What we looked at when we looked at alternatives
14 was simply to see, you know, did the alternative
15 provide a benefit. We didn't say, well, if the
16 Metcalf site provided one benefit, does the
17 alternative site provide the same one.

18 MR. HARRIS: Right.

19 MR. MACKIN: Just looked at benefits in
20 general.

21 MR. HARRIS: Okay, but from your review
22 of the applicant's LSE testimony, do you recall
23 that being the case?

24 MR. MACKIN: Well, okay, can you ask
25 that question one more time? I mean I reviewed

1 the applicant's LSE testimony, but --

2 MR. HARRIS: Right. The applicant's LSE
3 testimony found that Metcalf solves the Metcalf
4 500 230 kV transformer overloads, and that the
5 alternative sites 1 and 2 do not. Do you agree
6 with that finding is my question.

7 MR. MACKIN: Well, okay, well, I guess
8 to answer that question, to say I didn't do the
9 study. I have no reason to believe that the
10 applicant's analysis is flawed. So I guess I
11 would agree with it, yes.

12 MR. HARRIS: That's fine. And I
13 understand you didn't do that study individually.

14 Let's talk about the Bay Area, the
15 natural service area I believe we're calling it
16 for the Metcalf substation. And you heard
17 testimony, I think, before as to whether 600
18 megawatts solves all the Bay Area problem. And
19 the testimony from the applicant was that it does
20 not.

21 Do you concur with that analysis, if you
22 add 600 megawatts, does that solve the Bay Area
23 problems?

24 MR. MACKIN: No, it does not.

25 MR. HARRIS: And you also, I think,

1 heard earlier a hypothetical presented in the form
2 of a question that asked people to consider the
3 addition of 600 megawatts, not at Metcalf, but
4 other places.

5 So now I want to combine those two
6 things. Let me give you the hypothetical, and if
7 I lose you, please let me know.

8 MR. MACKIN: Okay.

9 MR. HARRIS: Assume Metcalf and it's 600
10 megawatts, okay, that's kind of the first
11 assumption.

12 MR. MACKIN: Okay.

13 MR. HARRIS: The second assumption that
14 I want you to make is an additional 600 megawatts.
15 Say, for example, 150 here, 150 there, I won't try
16 to pin you down to locational benefits since I'm
17 not giving you locations, but assume that that
18 additional 600 megawatts is within the natural
19 service territory for the Metcalf substation.

20 So, by my assumption we have 600
21 megawatts from Metcalf, plus an additional 600
22 somewhere throughout that area in unidentified
23 locations. Do you have that hypothetical in mind?

24 MR. MACKIN: Yeah. Yes.

25 MR. HARRIS: Would the addition then of

1 the 1200 megawatts total improve the system in the
2 Metcalf natural service area?

3 MS. DENT: I'm going to object to the
4 testimony on the grounds that I don't think 1200
5 megawatts has been identified as any kind of
6 alternative to this project in the record so far.

7 HEARING OFFICER FAY: You're objecting
8 to the question?

9 MS. DENT: I'm objecting to the question
10 on the grounds that we're talking about an
11 alternative that hasn't been identified at all as
12 an alternative to the project. A 1200 megawatt
13 project. I think that's what he was describing.

14 HEARING OFFICER FAY: Well, it's more
15 typical of the attorney for the party being cross-
16 examined to be protecting his witness --

17 MS. DENT: Well, I was trying to move
18 things along.

19 MR. HARRIS: I'm willing to stipulate
20 that there is not a second 600 megawatt block out
21 there, that the only 600 megawatt block that is
22 out there is Metcalf.

23 I presented a hypothetical. Since there
24 isn't a second alternative asking for --

25 MS. DENT: I think your question was

1 about a 1200 megawatt --

2 MR. HARRIS: That's how I got to 1200.

3 MS. DENT: Yeah.

4 MR. HARRIS: Did I confuse people with
5 that?

6 HEARING OFFICER FAY: Maybe so, --

7 MS. DENT: I guess I --

8 HEARING OFFICER FAY: Why don't you take
9 another stab at the question. Let's hold off on
10 the objection --

11 MR. HARRIS: Okay, I apologize for not
12 being clear. The hypothetical again, for your,
13 Peter, is assume 600 megawatts from the one actual
14 alternative that we're aware of on the table, the
15 600 megawatts from Metcalf, and Metcalf through
16 the substation connected as it, that's the first
17 600.

18 I'm going to get to 1200. The second
19 600 is this kind of mythical hypothetical second
20 600 within the service territory.

21 So you've got a total of 1200
22 megawatts --

23 MR. MACKIN: Right.

24 MR. HARRIS: -- within that service
25 territory. Would that addition of 1200 megawatts

1 improve the system within the natural service
2 territory for the Metcalf substation?

3 MR. MACKIN: Okay, before I can answer
4 it, let me -- can I clarify your question, so on
5 the second 600 are you assuming maybe 150
6 distributed, four distributed generators, or are
7 you assuming another big 600 megawatt generator,
8 or do you care?

9 MR. HARRIS: Actually -- either way
10 would be great. Actually I'd like to hear it both
11 ways. Let's assume another 600 megawatt power
12 plant, say near somewhere electrically near the
13 Fremont/Newark area, for example. Maybe north San
14 Jose, somewhere in that area, but a single 600
15 megawatts, let's start with that.

16 MR. MACKIN: Okay. Yeah, that would
17 improve, I believe that would improve the system,
18 and it would be an improvement over either one by
19 itself, either, you know, if you're looking at
20 alternatives 1 and 2, for example, versus Metcalf,
21 if you had both an alternative 1 and Metcalf,
22 you're net benefit would be, I think, exceed the
23 sum of -- could even exceed the sum of the two.

24 MR. HARRIS: So not only is there room
25 for a second 600 megawatt facility, there's

1 actually additional benefits from having a project
2 at Metcalf and a project at one of the alternative
3 sites, is that correct?

4 MR. MACKIN: I believe so.

5 MR. HARRIS: Would that also take you
6 closer to your 60/40 kind of rule of thumb, if
7 there was an additional 1200 megawatts total
8 within this area?

9 MR. MACKIN: Yeah, that would, yeah.

10 MR. HARRIS: So that would help you
11 conform to that planning criteria?

12 MR. MACKIN: Well, --

13 MR. HARRIS: Or planning rule of thumb?

14 MR. MACKIN: Right. It's a planning
15 rule of thumb. You know, I need to always
16 emphasize that. You know, this rule of thumb is
17 not written down in criteria that, you know, thou
18 shalt have, you know, 40 percent internal
19 generation.

20 MR. HARRIS: Right, but that's prudent
21 planners, people in your profession use that as a
22 prudent planning tool, is that correct?

23 MR. MACKIN: Well, what we use it for is
24 when you look at a system and you see --

25 MS. DENT: I'm going to object to the

1 question on the grounds this is alternatives
2 testimony, and it's cumulative as to local systems
3 effects, and we --

4 MR. RATLIFF: While we appreciate the
5 City of San Jose's desire to protect our
6 witnesses, --

7 MS. DENT: Well, I am trying to --
8 I'm -- that's my objection.

9 MR. RATLIFF: -- we find that I think we
10 need to observe that hypothetical questions are
11 allowed to expert witnesses. And if the witness
12 knows the answer he should be allowed to answer.

13 HEARING OFFICER FAY: Yes, --

14 MR. WILLIAMS: These duplicate my
15 questions earlier today so far.

16 HEARING OFFICER FAY: Well, --

17 MS. DENT: That was local systems
18 effect, this is alternatives. I'm just objecting
19 to the cumulative nature of the --

20 HEARING OFFICER FAY: Okay, I'd ask you
21 to bear with us, we usually try to err on the side
22 of getting more information and not excluding
23 information from the record.

24 So, I'm going to overrule the objection.
25 Go ahead, --

1 MS. CORD: You know is that --

2 HEARING OFFICER FAY: -- Mr. Harris.

3 MR. AJLOUNY: That's a rule of thumb.

4 MR. HARRIS: I'm actually about to move
5 on from that point anyway.

6 MS. CORD: Good.

7 MR. WILLIAMS: -- answers to you better
8 than Mr. --

9 HEARING OFFICER FAY: Yes, the Committee
10 has ruled.

11 MR. WILLIAMS: Thank you.

12 HEARING OFFICER FAY: Go ahead.

13 MR. HARRIS: Okay, I'll go ahead and
14 move on. Is N-2 to the loss of 250 kV lines
15 considered a credible contingency under WSCC
16 criteria?

17 MR. MACKIN: Yes, it is.

18 MR. HARRIS: Do you know whether that's
19 occurred in this area?

20 MR. MACKIN: I believe it has. As a
21 matter of fact I think in 1989 there was a
22 simultaneous loss of all 500 kV lines into
23 Metcalf.

24 MR. HARRIS: Okay, so not only is it a
25 credible criteria, it actually has occurred at

1 this site, is that correct?

2 MR. MACKIN: I believe so, yes.

3 MR. HARRIS: Thank you. I want to move
4 on to some of the issues raised in the staff's
5 visual testimony, and actually I want to first go
6 to -- there's one thing I wanted to clarify, and I
7 don't know who's proper to get into this one, but
8 I want to look at staff's figure 33 on alternative
9 site 4.

10 MS. WILLIS: This is in our rebuttal
11 testimony?

12 MR. HARRIS: I'm sorry, you're right,
13 rebuttal testimony. And it's actually quite a
14 simple point here. I just want to have you look
15 at 33, and the other reference, okay.

16 I think we've got a question of scale
17 here. From our perspective on figure 33, I think
18 we shrunk the -- you inadvertently shrunk the
19 plant size when you did this mockup, okay.

20 And I'm going to ask that in the form of
21 a question. Did you inadvertently shrink the size
22 of the power plant in trying to fit it onto this
23 configuration?

24 MR. WALKER: No, this is the same scale
25 as the plot plan, as the parcel map.

1 MR. HARRIS: Okay, look at figure 24, if
2 you would, then. And compare 24 and 33. 24 has a
3 scale that you'll see, and 33 looks like it's been
4 expanded, put on a copy machine and expanded.
5 Because you'll notice on 24 the plot plan has on
6 the right-hand, in the middle there's the number
7 31, and that designation, that's on 24. If you
8 look at 33 that scale has been blown up such that
9 the number 31 has disappeared.

10 MR. WALKER: Yeah, the point was to try
11 to show the KOPs on 24. So it had to be shrunk
12 down to fit onto there.

13 MR. HARRIS: Right, and I guess my
14 assertion here isn't it correct that when you
15 shrunk it down you used the plant from the smaller
16 drawing and stuck in incorrectly showing the scale
17 here?

18 MR. WALKER: That's not true.

19 MR. HARRIS: Okay. Well, we have the
20 calculations and we can go through and show --

21 MR. WALKER: That's fine, I've gone
22 through them, too.

23 MR. HARRIS: Okay, well, let's walk
24 through them I guess.

25 MR. AJLOUNY: Can we save this for the

1 brief?

2 MR. HARRIS: If he's willing to
3 stipulate the scale's wrong, fine. But I don't
4 think he is. So, on figure 33, the distance
5 between Prune Avenue and -- okay, there's a 324
6 foot dimension right below the word "Irvington
7 Warm Springs". Do you see that?

8 MR. WALKER: Yes.

9 MR. HARRIS: Okay. And that is
10 approximately 1.46 inches, subject to check would
11 you accept that?

12 MR. WALKER: Yes. Subject to check.

13 MR. HARRIS: The scale on this map, one
14 inch equals 222.2, so 222.2 feet. Do you accept
15 that subject to check?

16 MR. WALKER: I don't see any scale
17 marked on there.

18 MR. HARRIS: It's by calculation. If
19 1.46 inches is 324 feet, then the scale would be
20 that one inch would equal 222.2 feet. Subject to
21 check would you accept that scaling?

22 MR. WALKER: Yes.

23 MR. HARRIS: The combustion turbine --
24 excuse me, the cooling tower is 1.8 inches long,
25 subject to check? Would you accept that? I know

1 you don't have a ruler, Gary, but subject to
2 check --

3 MR. WALKER: I don't have a ruler.

4 MR. HARRIS: -- on the scale? That
5 cooling tower is actually 400 feet long, again
6 subject to check?

7 MR. WALKER: And so how many feet would
8 it -- so it should be what?

9 MR. HARRIS: By this scale that would be
10 400 feet.

11 MR. WALKER: Um-hum.

12 MR. HARRIS: Subject to check,
13 obviously. It should be? Using the scale of one
14 inch equals 222.2 feet, the cooling tower is 1.8
15 inches long, as shown on the map the cooling tower
16 would be about 400 feet long, and all that's got
17 to be subject to your math check?

18 MR. WALKER: Okay.

19 MR. HARRIS: The cooling tower is
20 actually 488.3 feet long per the supplement C
21 layout. So, again, this is all subject to check,
22 if those numbers are correct your scale is .82
23 scale, you're off by about 20 percent, subject to
24 check, and my liberal arts education?

25 MR. WALKER: I can't say.

1 MR. HARRIS: Okay, would you be willing
2 to take time during one of the breaks that we'll
3 certainly have later on tonight to --

4 MR. WALKER: Yes.

5 MR. HARRIS: -- to check those
6 dimensions?

7 MR. WALKER: Yes.

8 MR. HARRIS: And we'll share those with
9 you off the record.

10 MR. WALKER: Okay.

11 MR. HARRIS: Okay. I'll try to start a
12 sentence that doesn't start subject to check now.
13 I'm looking again at that figure. You've moved
14 the project east to reduce the visual impacts from
15 Fremont Boulevard, is that correct?

16 MR. WALKER: Yes.

17 MR. HARRIS: Again, assuming the cooling
18 tower is as we've shown it on our scale that we've
19 provided, subject to check, the cooling tower is
20 improperly oriented. And let me go into that.

21 That cooling tower needs to be oriented
22 in a direction that prevents the prevailing winds
23 from recirculating, so it should be reoriented
24 towards north to south. Is the cooling tower in
25 your diagram oriented north to south?

1 MR. WALKER: No, it's sort of east
2 northeast by west southwest.

3 MR. HARRIS: Okay, so the prevailing
4 winds might cause recirculation there at that
5 point, is that correct?

6 MR. WALKER: I'm not sure what the
7 prevailing winds are at site 4.

8 MR. HARRIS: Okay. If prevailing winds
9 are north to south, then the cooling tower would
10 have to be reoriented, is that correct?

11 MR. WALKER: I don't know.

12 MR. HARRIS: Okay, thank you, that's
13 fine. With the proper scaling and the proper
14 cooling tower orientation, the plant would
15 essentially have to be rearranged in the format
16 that Calpine/Bechtel presented in its testimony,
17 isn't that correct?

18 MR. WALKER: I don't know.

19 MR. HARRIS: That's a fair answer,
20 especially since we're going to scale it later.
21 Is it possible the plant could be located farther
22 to the east?

23 MR. WALKER: Well, there's some room in
24 the southeast corner, yes.

25 MR. HARRIS: Okay, thank you. I want to

1 go now to Mr. Donaldson and talk about the Los
2 Esteros substation.

3 In your discussions of alternatives 1
4 and 2 you focus on the Los Esteros substation.
5 It's my understanding that there's a final EIR out
6 for that project, is that your understanding, as
7 well?

8 MR. DONALDSON: I understand there is.

9 MR. HARRIS: Okay. In doing your
10 analysis of the proposed Los Esteros substation,
11 you stated essentially that you assumed the
12 existence of that substation and that assumed --
13 because it's necessary for the power plant, is
14 that correct?

15 MR. DONALDSON: Yes.

16 MR. HARRIS: And by assuming that the
17 existing visual quality is degraded to a point
18 that the addition of a 600 megawatt power plant
19 would not further degrade that viewshed, is that
20 essentially your testimony? Very much boiled down
21 and probably unfairly so?

22 MR. DONALDSON: I would agree with what
23 you just said, that it's unfair to assume that to
24 that degree. Certainly, --

25 MR. HARRIS: Okay, I'm sorry. Let's do

1 it the other way.

2 MR. DONALDSON: Okay.

3 MR. HARRIS: Why don't you boil it down
4 in a fair way for us then.

5 MR. DONALDSON: Okay. The presence of
6 the substation would certainly have a significant
7 visual effect from my analysis of that area, and
8 of understanding what a substation would
9 constitute in that area, including the
10 transmission lines and so on.

11 The power plant there would certainly
12 have a visual effect, and that's the part I was
13 having a little bit of trouble agreeing with you.
14 There would certainly be visual impact and it
15 would degrade the visual character of that area to
16 a degree.

17 However, the fact that the substation is
18 part of the existing, is assumed to be part of the
19 existing baseline environment, and I've identified
20 that existing visual environment with the
21 substation present as being from a low to
22 moderately low visual character and quality, if I
23 remember right, I'd have to double check, just
24 look real quickly --

25 MR. HARRIS: Okay.

1 MR. DONALDSON: Given that situation,
2 the power plant would have an effect on the
3 environment, on the visual environment; however,
4 that would not reduce it substantially further
5 below what it would already be at.

6 Does that make sense?

7 MR. HARRIS: That makes sense.

8 MR. DONALDSON: Okay.

9 MR. HARRIS: Let me reboil it down in my
10 layman's terms, so that by adding the substation
11 to the existing site, the existing visual quality
12 is generally so poor that the power plant's not
13 going to make it significantly worse? Is that
14 relatively correct?

15 MR. DONALDSON: Well, relatively.

16 MR. HARRIS: Okay. We'll stick with
17 relatively and move on.

18 For the Los Esteros substation there are
19 several sites identified in the final EIR, is that
20 correct?

21 MR. DONALDSON: I'm remembering several
22 sites, several alternative sites?

23 MR. HARRIS: Alternative sites for the
24 location of the substation, itself.

25 MR. DONALDSON: I'm honestly not

1 remembering. It's been awhile since I've actually
2 looked at that. Okay, I'm going to assume
3 you're --

4 MR. WALKER: I'm probably more familiar
5 with that --

6 MS. WILLIS: I think Mr. Walker can
7 answer that.

8 MR. WALKER: -- EIR.

9 MR. HARRIS: Okay, well, I was just
10 going to go back and I'll ask the questions. If
11 you're more appropriate to answer, I just thought
12 Joe was. It doesn't matter to me.

13 In your analysis, though, which is what
14 I've focused on, you've said that alternative site
15 1 and 2 are not significant visually. What site
16 did you use for the yet-as-unbuilt substation,
17 given that there are more than one alternative
18 sites set forth in the final EIR?

19 MR. DONALDSON: There is a figure, let
20 me find it here, that does show the -- it may be
21 easiest to just simply address that on the figure,
22 if I can figure out which one --

23 MR. HARRIS: Take your time.

24 (Pause.)

25 MR. DONALDSON: Well, rather than taking

1 more time, I was just looking at it a moment ago,
2 but the figure shows, it actually shows the
3 location -- it's in the full testimony somewhere,
4 if I could find that.

5 The figure shows that the substation is
6 located between sites 1 and 2, alternative sites 1
7 and 2.

8 MR. HARRIS: Could we find that figure?
9 I remember it, too, Mr Donaldson, and I can't find
10 it.

11 MR. DONALDSON: It's a color figure,
12 it's in the original testimony. Oh, there it is,
13 yeah.

14 MS. WILLIS: Page 719 --

15 HEARING OFFICER FAY: 719?

16 MS. WILLIS: -- well, the page across
17 from 718. Figure 6.

18 MR. HARRIS: Okay, thank you, I have it.
19 It's next to page 518 in my draft, so.

20 MR. DONALDSON: I found it, too, thank
21 you.

22 MR. HARRIS: So we're looking at figure
23 6. Where's the substation assumed to be there?

24 MR. DONALDSON: The substation is
25 indicated as the brown area between alt sites 1

1 and 2.

2 MR. HARRIS: Okay, and that's the
3 location for the proposed substation that you used
4 to do your visual analysis?

5 MR. DONALDSON: That's correct.

6 MR. HARRIS: Okay. Do you know whether
7 that's the preferred alternative site, or maybe
8 Mr. Walker's more appropriate. Do you know
9 whether that's the preferred alternative site?

10 MR. WALKER: Yes, it is.

11 MR. HARRIS: It is, thank you.

12 MR. HARRIS: So, Mr. Donaldson, is that
13 the only site you looked at in your analysis was
14 the one site that's set forth on figure 6?

15 MR. DONALDSON: Yes, that was the site I
16 was assuming and was given as being the location
17 for the substation.

18 MR. HARRIS: Just the one, so in your
19 analysis you did not look at the alternative sites
20 set forth in the final EIR? Just the one?

21 MR. DONALDSON: No, I -- correct.

22 MR. HARRIS: Okay, thanks. What routes
23 did you use for the linear facilities, again
24 looking at figure 6, in doing your analysis to
25 find that there was a significant impact?

1 MR. DONALDSON: What routes for the
2 linear facilities?

3 MR. HARRIS: Where do the wires go?
4 Where are the transmission lines? You assumed the
5 significant impact associated with this new as yet
6 unbuilt substation, so what did you assume in
7 terms of the transmission lines coming out of that
8 new substation?

9 MR. DONALDSON: I assumed that there
10 would be several transmission lines coming in from
11 various directions that would be visible. They
12 weren't plotted on a map that I analyzed.

13 MR. HARRIS: So, in making your
14 determination as to whether that substation would
15 have a significant impact, you didn't look at any
16 specific route as described in the final EIR, is
17 that correct?

18 MR. DONALDSON: No, actually looked at
19 the, what a typical substation would look like,
20 and did make the assumption that there would be
21 incoming transmission lines, as well as a variety
22 of other facilities there that constitute that
23 substation.

24 MR. HARRIS: Okay, do you --

25 MS. WILLIS: Mr. Harris, before you go

1 on, just to clarify, the final EIR, my
2 understanding is it was not out at the same time
3 before our staff assessment was done, isn't that
4 correct?

5 MR. HARRIS: I'll stipulate to that,
6 sure.

7 MS. WILLIS: Okay.

8 MR. HARRIS: That's correct. I just --

9 MS. WILLIS: I just want to make sure
10 that there's not an understanding that that was
11 out before this was done.

12 MR. HARRIS: No, I'm sorry. The draft
13 was available, but the final just came out. And
14 so if that wasn't clear, I'm not suggesting you
15 should have been clairvoyant, okay, and know what
16 was in there. I just wanted to know what's in it
17 outside of your analysis.

18 You said you used the visual look of a
19 typical substation to determine the impact on the
20 existing environment for this new substation, is
21 that correct?

22 MR. DONALDSON: Yes.

23 MR. HARRIS: Did you assume a 500 kV
24 substation typically, or 230 kV substation
25 typically?

1 MR. DONALDSON: I assumed a substation
2 on the order of what I assumed would be typical,
3 would be like the one at Metcalf. Now, I'm not
4 sure what the kV amount quantity is for that.

5 MR. HARRIS: So you assumed essentially
6 if you picked up the 500 kV station from Metcalf
7 right down the road here, and had a similar
8 substation in alternative sites 1 and 2, that's
9 what you considered typical?

10 MR. DONALDSON: I assumed something on
11 that order, in that general range. However, a
12 smaller substation, even half that size, I
13 believe, would still have the same visual impacts.

14 So if you're concerned about the size of
15 it, I don't, you know, from my perspective and
16 from my analysis I wouldn't assume that that would
17 be an issue.

18 MR. HARRIS: Okay, so from your
19 perspective, whether it's a 230 kV substation or a
20 500 kV substation didn't have an impact in terms
21 of your finding of significance, is that correct?

22 MR. DONALDSON: That would be correct.

23 MR. HARRIS: What if it was a 115 kV
24 substation, even smaller than the 230?

25 MR. DONALDSON: I would need to see a

1 picture of that and a simulation to kind of
2 indicate what that would look like, to see if it
3 was substantially changed the visual character.

4 MR. HARRIS: Okay, so but back to your
5 analysis, you assumed a substation similar to the
6 one at Metcalf, essentially, is that what I heard
7 you say earlier?

8 MR. DONALDSON: Something on that order.

9 MR. HARRIS: Something on that order?

10 MR. DONALDSON: Sure, down to maybe even
11 half that size.

12 MR. HARRIS: What do you assume in terms
13 of the footprint of that substation? Is it half
14 the size of Metcalf, the full size of the 500 kv
15 Metcalf substation?

16 MR. DONALDSON: I assumed that it would
17 occupy a portion of the site that would be
18 somewhat smaller in size than alt 1. And I don't
19 know what, you know, the exact square footage of
20 the site might occupy.

21 MR. HARRIS: Okay, so you didn't have an
22 exact square footage in mind when you did your
23 simulations? Not simulations, your analysis.
24 Sorry.

25 MR. DONALDSON: No, no.

1 MR. HARRIS: Okay. But generally it
2 would look like the Metcalf substation in terms of
3 what's onsite, the wires, the transformers, is
4 that what you assumed?

5 MR. DONALDSON: There would be -- no,
6 not necessarily, I assume that there would be
7 similar elements, and that there would be a large
8 complex of, you know, metal power transmission
9 towers and other elements and lines coming in and
10 so on.

11 MR. HARRIS: So what kind of equipment,
12 representative equipment did you assume then, if
13 not the equipment at the Metcalf substation, what
14 did you assume in terms of equipment on site at
15 the Los Esteros substation?

16 MR. DONALDSON: Like I just said, the
17 power transmission towers, the lines, the -- all
18 those elements that comprise a substation from the
19 ones that I've seen. I don't know the precise
20 names, if that's what you're asking for.

21 MR. HARRIS: No, just trying to figure
22 out generally what you envisioned out there, and
23 so it sounds like it's something similar to what
24 you would envision at Metcalf substation, maybe
25 smaller?

1 MR. DONALDSON: Yes, yeah, similar types
2 of elements. Yeah, with similar heights and, you
3 know, not to be too obtuse here, but you know,
4 similar sort of cluttered look to the facility,
5 very industrial in character.

6 MR. HARRIS: Now, if I were to tell you
7 that the Metcalf substation is, in terms of
8 relative age, a very old substation, and that more
9 modern substations with newer substation equipment
10 that neither one of us are going to go into the
11 names on, because I'll get in trouble, too, but a
12 modern power plant with modern equipment, would be
13 significantly lower in profile and smaller in
14 size, would that change your finding of
15 significance?

16 MR. DONALDSON: I would need to see what
17 that looked like.

18 MR. HARRIS: Okay, but you didn't
19 analyze a more modern looking substation in
20 putting together your analysis?

21 MR. DONALDSON: Well, certainly didn't
22 analyze it to the same degree of analysis for the
23 Metcalf facility, because it is an alternative
24 analysis, therefore, no, I did not take that
25 detailed a look as you're describing here as part

1 of this analysis.

2 MR. HARRIS: Did you assume overhead
3 lines, as well?

4 MR. DONALDSON: I did, yes.

5 MR. HARRIS: Maybe Mr. Walker can
6 correct me if I'm wrong, but I believe the final
7 EIR has proposed undergrounding portions of those
8 lines.

9 If --

10 MR. WALKER: I'll correct you. It's not
11 in the immediate neighborhood of the substation.
12 In fact they would be above ground lines to the
13 south of the substation in between the substation
14 and 237.

15 MR. HARRIS: As proposed in the final
16 EIR, is that correct?

17 MR. WALKER: Yes.

18 MR. HARRIS: Okay. We'll make it an
19 assumption then, if you had assumed that the ALJ
20 at the Public Utilities Commission who has
21 discretion to look at this final EIR decides that
22 it ought to be underground, a low profile modern
23 one, and an underground transmission line, that
24 would affect the potential visual impacts,
25 wouldn't it?

1 MR. DONALDSON: I would think it would.

2 MR. HARRIS: Okay.

3 MR. DONALDSON: It would affect them.

4 MR. HARRIS: Did you prepare a photo
5 simulation of the Los Esteros substation, what you
6 thought it might look like?

7 MR. DONALDSON: No, we did not.

8 MR. HARRIS: Mr. Walker?

9 MR. WALKER: No, we did not prepare one.
10 We do not have one available.

11 MR. HARRIS: Okay, thank you. That's
12 fine. So we don't have a visual to look at.

13 In terms of, and maybe, Mr. Walker, if
14 you're the better one to answer the question, in
15 terms of the final EIR that's out on the street
16 now, is that correct?

17 MR. WALKER: Yes.

18 MR. HARRIS: Okay, so it's out for, I
19 guess there's no review period. My understanding
20 is, and correct me if I'm wrong here, won't that
21 EIR go to an Administrative Law Judge now for the
22 drafting of a decision, is that correct?

23 MR. WALKER: Yes.

24 MR. HARRIS: And that Administrative Law
25 Judge has the discretion to accept some, all or

1 none of --

2 MS. WILLIS: I'm going to object to this
3 question. I mean this is outside Mr. Walker's
4 testimony. The process that the EIR goes through
5 is not part of his testimony.

6 MR. HARRIS: Okay, well, --

7 HEARING OFFICER FAY: Okay, you know,
8 I'm going to --

9 MR. HARRIS: -- let me -- I'll rephrase
10 then, if that's --

11 Are there additional -- let me back up.
12 Could that substation be built today based upon
13 that final EIR, or is there additional work that
14 has to be done before it could be built?

15 MS. WILLIS: I'm going to object again
16 on the same grounds.

17 MR. HARRIS: Does the witness know?

18 HEARING OFFICER FAY: Well, I'm not
19 going to sustain that objection. Mr. Walker may
20 know whether or not the environmental review
21 process and licensing process is terminated, has
22 been completed. Do you know that?

23 MR. WALKER: What do you mean by the
24 environmental review process? Do you mean the
25 ALJ's work, or just the final EIR?

1 HEARING OFFICER FAY: Do you know if the
2 EIR that's now published is the final
3 determination on that substation?

4 MR. WALKER: EIRs aren't determinations,
5 they're informational documents given to decision
6 makers.

7 HEARING OFFICER FAY: Okay.

8 MR. HARRIS: That's fine, I'm willing to
9 accept that and argue it in my briefs. I'll move
10 on.

11 I want to go on to Mr. Walker, on pages
12 5 and 6 of your testimony related to alternative
13 site 4, --

14 MS. WILLIS: Is that the rebuttal
15 testimony?

16 MR. HARRIS: Rebuttal testimony, thank
17 you for correcting me yet again, because I've
18 screwed it up yet again. So, yeah, rebuttal
19 testimony, pages 5 and 6 at the bottom.

20 And we'll look at the last paragraph
21 there. Your testimony is that staff has learned
22 that the developer of the property on the site
23 closest to -- excuse me, I'd better read it
24 correctly.

25 Staff has learned the developer of the

1 property with the house closest to the site, on
2 the east side of Old Warm Springs Road, has
3 occupied the site and plans to destroy it when the
4 property, which is on the market, is developed.
5 And you cite Walsh 2001. The closest remaining
6 residences are on Lopes Court south of Grimmer
7 Road.

8 So just so I understand your testimony
9 there, that currently the closest residences are
10 on Warm Springs, is that correct?

11 MR. WALKER: There are three residences
12 actually on Warm Springs, north of Grimmer. And
13 one just off of that behind one of those
14 residences on the north end.

15 Of those, all but one have the doors and
16 windows boarded up. They're actually abandoned.
17 The fourth one showed, there was a pickup truck in
18 the driveway and a chain link fence recently put
19 up around the house.

20 I called the realty company and they
21 said that that house, the former tenants had
22 moved, and the developer actually was occupying
23 that residence now.

24 MR. HARRIS: Okay, and the testimony is
25 that those houses are likely to be demolished?

1 MR. WALKER: Yes.

2 MR. HARRIS: And if they are
3 demolished --

4 MR. WALKER: According to the real
5 estate agent, yes, --

6 MR. HARRIS: Right, as cited in your
7 testimony.

8 MR. WALKER: Yes.

9 MR. HARRIS: The Walker -- Walsh, not
10 Walker, Walsh --

11 MR. WALKER: Yes, Walsh.

12 MR. HARRIS: -- communication. So,
13 based upon the demolition and the closest
14 remaining residences are going to be the Lopes
15 Court, is that correct?

16 MR. WALKER: Yes, along Lopes Court,
17 yes.

18 MR. HARRIS: Okay. So is it your
19 testimony then that in doing your analysis the
20 closest residence that you looked at for alt site
21 4 were the residences on Lopes Court?

22 MR. WALKER: Yes.

23 MR. HARRIS: So then in doing your
24 analysis one acceptable means of doing a visual
25 analysis is to deal with those significant visual

1 impacts by simply -- I almost said demolishing the
2 receptors, that's not correct -- demolishing the
3 homes and moving the receptors, is that correct?

4 MR. WALKER: Well, you said with
5 significant impacts, but staff didn't find any
6 significant impacts for this location.

7 MR. HARRIS: Okay, I'm sorry, you're
8 correct, thank you for the correction. But in
9 terms of doing your analysis as to whether there
10 were significant visual impacts, part of what you
11 considered was the demolition of those homes, is
12 that correct?

13 MR. WALKER: Yes.

14 MR. HARRIS: Okay. So, isn't it true
15 then that in the Metcalf site, the receptors on
16 Blanchard Road are fairly close by. Is it your
17 testimony then that Calpine could eliminate issues
18 related to KOP 1 and significant visual impacts on
19 Blanchard Road simply by buying those homes and
20 demolishing the homes, and thereby removing those
21 viewers?

22 MR. WALKER: Staff has never recommended
23 any such mitigation for visual impacts.

24 MR. HARRIS: Nor am I suggesting that we
25 would do that. But I'm asking in terms of what

1 you consider in your analysis, you've testified
2 that demolition of those homes, remove the viewers
3 is significant to your analysis.

4 And my question then is if Calpine were
5 to buy out the homes on Blanchard Road and remove
6 all the viewers from KOP1, would that essentially
7 eliminate the significant impact from KOP1,
8 because there would be no one there to view it?

9 MR. WALKER: Well, your premise is
10 incorrect because you said that removal of the
11 residence and the homes was important to the
12 analysis for alternative 4. The residents have
13 already been removed, and the houses are abandoned
14 and boarded up. They're not currently used as
15 residences. So that's why -- it's not what might
16 happen in the future, it's what's already happened
17 to them.

18 MR. HARRIS: Okay, well, if you had
19 assumed then that Calpine a year ago, Calpine/
20 Bechtel, thank you, had --

21 (Laughter.)

22 MR. HARRIS: -- bought the property
23 along Blanchard Road, before your FSA came out,
24 eliminated all those homes, and basically made it
25 a closed-off driveway with no receptors, those are

1 assumptions, I'm asking you to make those
2 assumptions, at that point your KOP1 would have no
3 receptors, isn't that correct?

4 MR. WALKER: If Calpine had bought the
5 homes with the intention of eliminating receptors,
6 then that act, itself, would have been part of the
7 proposed project, and we'd have to evaluate those
8 impacts, as well.

9 MR. HARRIS: Fair enough, but the
10 impacts on viewers would be significantly
11 different if there are no viewers in that
12 location, isn't that correct?

13 MR. WALKER: That's correct.

14 MR. HARRIS: Do your methodologies then
15 give any credit for Calpine/Bechtel deciding
16 instead of demolishing those farmhouses and those
17 residences, leaving them in place so that farming
18 operations can continue on Blanchard Road?

19 MR. WALKER: I don't understand what you
20 mean by credit.

21 MR. HARRIS: Okay, well, do your
22 methodologies have the ability -- let me back
23 up -- premises that your methodologies allow for
24 consideration of removal of viewers by the homes
25 being demolished, that's obviously true.

1 Is there a counterbalance that in doing
2 your analysis you can look at that and say, well,
3 instead of buying these homes and demolishing them
4 and kicking these people out and ending the
5 farming operations, they're not doing that. So,
6 there should be some mitigation in terms of
7 whether that impact is significant? Or are you
8 constrained by your professional methodologies in
9 that respect?

10 MR. WALKER: Constrained by my common
11 sense.

12 (Laughter.)

13 MR. HARRIS: Okay, --

14 MR. DONALDSON: Could I just add one
15 thing? May I?

16 MR. HARRIS: On this issue?

17 MR. DONALDSON: Yes.

18 MR. HARRIS: Okay, go for it.

19 MR. DONALDSON: I think just based on
20 what CEQA says, and I don't have the exact wording
21 in the law in front of me, there is an important
22 issue regarding the timing of these sorts of
23 things. And I believe, I'm not sure, and if any
24 CEQA people, experts are here who can clarify
25 this, it has something to do with the timing, the

1 baseline condition is set at the time of the
2 filing.

3 And therefore, you know, had you
4 demolished those homes prior to the filing, I
5 would assume that that would constitute a baseline
6 condition whereby there were not homes there.

7 MR. HARRIS: So the policy directive
8 would be an applicant would be better off to buy
9 and demolish homes before filing an application?

10 MS. WILLIS: I'm going to object to that
11 as argumentative.

12 MR. HARRIS: I think it's a fair
13 question.

14 MS. WILLIS: It isn't a fair question.

15 HEARING OFFICER FAY: I'm going to
16 sustain that objection. I think it's very
17 speculative.

18 MR. AJLOUNY: You can buy all our homes,
19 buddy.

20 (Laughter.)

21 (Parties speaking simultaneously.)

22 MR. AJLOUNY: Mine's for sale.

23 MR. HARRIS: Let me back up and ask it,
24 instead of asking you to speculate, if the
25 baseline condition for this project had been that

1 there were no residences, no one to observe
2 anything on Blanchard Road because it was closed
3 off and everything had been demolished, that would
4 have been a significant fact in your analysis,
5 isn't that correct?

6 MS. CORD: -- speculative --

7 MR. DONALDSON: Clearly if CEQA
8 establishes the point at which a baseline
9 condition occurs, and clearly if that's a
10 preexisting condition, that is the baseline
11 condition.

12 That's, I mean, you know, we can go dig
13 out a copy of CEQA and take a look at that, but
14 that's my understanding.

15 MR. HARRIS: I can agree with that. And
16 I'll make the policy arguments in my brief.

17 Let's move on now, again, on page 5,
18 though, of Mr. Walker's testimony, you talk about
19 alternative site 4 and you go on to state that
20 figure 33 shows -- let me find the exact page,
21 about in the middle, I guess it's the second full
22 paragraph. It's a very large paragraph, near the
23 bottom.

24 It says: As alternatives figure 33
25 shows the site is 20 acres in size, and extends

1 over 1200 feet from Fremont Boulevard.
2 Alternatives figure 33 also shows revised Metcalf
3 plans superimposed on the site. By placing the
4 object at the northeast portion of the site, the
5 stacks would be approximately 1200 feet away from
6 the viewers on Fremont Boulevard, instead of
7 approximately 600 feet.

8 As alternatives figure 34 shows, this
9 change reduces the perceived height by
10 approximately 50 percent.

11 So, let's go to alternatives figure 34,
12 and this is in the rebuttal testimony, or is it in
13 the direct, Kerry? Rebuttal, okay.

14 You have there a figure of 34 that's
15 listed as described as alternative site 4,
16 vertical view angles of the top of the stack, a
17 distance of 600 feet and 1200 feet, and perceived
18 height of stack at 600 feet, with stack distance
19 of 1200 feet.

20 If I'm understanding this correctly what
21 you've shown here is essentially that at 1200 feet
22 an object, versus 600 feet, is perceived to be
23 about half the height, is that correct?

24 MR. WALKER: Yes.

25 MR. HARRIS: And you've done this with

1 the stacks showing that if you're at 1200 feet
2 it's actually about half the height, perceived
3 height is 72.5 feet, is that correct?

4 MR. WALKER: Yes.

5 MR. HARRIS: Is this a site-specific
6 phenomenon for alternative 4, or is it kind of a
7 general principle?

8 MR. WALKER: A general principle.

9 MR. HARRIS: So it's a scientific fact
10 that would apply not just to site 4?

11 MR. WALKER: Yes.

12 MR. HARRIS: Okay. And the phenomenon,
13 again, just so I understand, is it looks half as
14 big just by moving from 600 to 1200 feet?

15 MR. WALKER: Half as tall.

16 MR. HARRIS: I'm sorry, half as tall.

17 Correct. Tall, big. Big and tall.

18 MR. WALKER: Big could mean area-wise or
19 mass.

20 MR. HARRIS: Right, --

21 MR. WALKER: This only is talking about
22 height.

23 MR. HARRIS: Thank you for the
24 clarification, you're right. The height would
25 appear half as tall.

1 The distance from the Passantino
2 property at KOP1 to the Metcalf project is
3 approximately 1200 feet. Based upon what you've
4 shown in this diagram, from the Passantino
5 residence or 1200 feet from the project, isn't it
6 true then that the 145 foot Metcalf stack would
7 appear to be half the size of the stack if you
8 were looking at it from 600 feet, is that correct?

9 MR. WALKER: Yes. Half as tall.

10 MR. HARRIS: Half as tall, thank you.
11 Calpine/Bechtel; half as tall.

12 So, it's half as tall. Did your
13 analysis of the KOP1 include a description that
14 from the Passantino residence at 1200 feet that
15 the stack would be perceived as half as tall as it
16 actually is?

17 MR. WALKER: Well, there's no 600-foot
18 baseline to measure it from. So, of course not.
19 This particular case there was a 600-foot baseline
20 established by Calpine's simulation.

21 MR. HARRIS: If I moved the KOP 600 feet
22 closer to the site that view, relative to the KOP
23 1200 feet from the site, wouldn't it appear half
24 as big, if you use those two reference points?
25 Tall.

1 MR. WALKER: If you moved it 600 feet?

2 MR. HARRIS: Yes.

3 MR. WALKER: It would be twice as large,
4 not half as high. It would be twice as high if
5 you moved it to 600 feet.

6 MR. HARRIS: Well, depends on which one
7 you put the denominator of the fraction.

8 MR. WALKER: You said move it from 1200
9 to 600, that makes it twice as tall.

10 MR. HARRIS: Let's go the other way,
11 then. If you moved it from 600 to 1200 it would
12 appear to be half as tall, is that correct?

13 MR. WALKER: Yes, yes.

14 MR. HARRIS: Okay. All right.

15 Sometimes, like I say, the math scares me
16 sometimes.

17 But that's not reflected anywhere in
18 your testimony for the Metcalf project because you
19 didn't have a site 600 feet away, is that correct?

20 MR. WALKER: Yes, there was no KOP 600
21 feet away.

22 MR. HARRIS: Okay, thank you. I want to
23 go to the issue of offsite screening now. And
24 let's take a look at your testimony.

25 For alternative 1 on page 3 of your

1 testimony, let's all turn there together. This is
2 the rebuttal testimony, again. Alternative 1,
3 page 3.

4 Testimony is that landscaping is going
5 to be providing some screening off of Zanker Road.
6 I'm looking at I guess the second full paragraph,
7 and you say placing vegetation and perhaps a berm
8 along the east side of Zanker Road would further
9 screen the power plant from the view. Page 3,
10 second paragraph. Do you see that testimony?

11 MR. WALKER: Yes.

12 MR. HARRIS: For alternative 2, now, on
13 page 3, again you go to the issue of landscaping
14 and along site 237, and specifically the last
15 paragraph on page 3. You talk about landscaping
16 and the very last sentence on the page, offsite
17 landscaping, which has been used for other power
18 plant projects, may be feasible -- continuing onto
19 page 4 -- placing large shrubs and trees along the
20 north side of Route 237 would further reduce the
21 visual impacts.

22 Do you see that as your testimony?

23 MR. WALKER: Yes.

24 MR. HARRIS: For alternate site 3 in the
25 middle of page 4, you talk about offsite screening

1 again. And you say, I'm at the bottom of the
2 first full paragraph under alt 3, the large
3 paragraph. You say, even if the location used for
4 Calpine/Bechtel's testimony, even if the location
5 used in Calpine/Bechtel's testimony, most of the
6 views from the plant would be screened by existing
7 vegetation as shown in figure 17 and 18, so you
8 see that for your discretion of alternative 3, is
9 that correct?

10 MR. WALKER: Yes.

11 MR. HARRIS: Bottom of page 5 for
12 alternative 4, again we're talking about screening
13 here. The last sentence, okay, the second full
14 paragraph, the third paragraph on the page, large
15 paragraph, the last sentence. It says: To
16 provide a more complete screen and to insure that
17 the views and the hills would not be obscured the
18 combination of a berm and shrubbery could be used
19 instead of trees, do you see that as your
20 testimony?

21 MR. WALKER: Yes, I do.

22 MR. HARRIS: So it's your testimony,
23 then, for alternative sites 1 through 4 that trees
24 and shrubs and berms used in combination can
25 effectively screen views so there are no

1 significant visual impacts, is that a fair summary
2 of those discussions I just went through?

3 MR. WALKER: No.

4 MR. HARRIS: Would you explain why trees
5 and shrubs and berms are not then used to screen
6 views on those four sites?

7 MR. WALKER: I didn't say they weren't
8 used, I said -- you asked whether they would
9 mitigate significant impacts, and I said no.

10 MR. HARRIS: Okay, so the difference in
11 your answer then is that some of these you found
12 to be significant and some of them you did not, is
13 that correct?

14 MR. WALKER: Yes. And the ability for
15 screening to mitigate impacts depends upon the
16 relationship of the viewers to the site and where
17 the screening could be placed in relation to the
18 site, whether it's close to the site, or closer to
19 the viewers where it has much more effect. And it
20 depends upon the existing visual quality and it
21 depends upon viewer exposure and a host of other
22 factors which are all described in the testimony.

23 MR. HARRIS: So, I accept that, that
24 basically screening is one tool; you can use trees
25 and berms and shrubs in certain locations as one

1 tool to mitigate visual impacts, is that a fair
2 statement?

3 MR. WALKER: And the effectiveness
4 depends upon the site specific conditions.

5 MR. HARRIS: Okay, well, applying that
6 concept of offsite visual screening to KOP1 on
7 Blanchard Road, if you placed screening along
8 Blanchard Road as opposed to demolishing the
9 homes, to mitigate and essentially block all the
10 views towards the power plant, wouldn't that
11 essentially eliminate the significant impacts on
12 viewers along Blanchard Road?

13 MR. WALKER: I think it would be good
14 for Mr. Donaldson to answer part of that. I can
15 give a start to it by saying that placing the
16 trees along the road would only screen views from
17 the homes to the north of the road, not to the
18 ones to the south of the road.

19 MR. HARRIS: Okay, trees and shrubs and
20 berm, as well, all three of those combination of
21 things is what I asked. Use that in your
22 analysis, please.

23 MR. WALKER: Okay, but if they were all
24 three along the road instead of north of the homes
25 on the north side of the road, it would obviously

1 only affect the views from homes on the south side
2 of the road.

3 MS. WILLIS: Before we go on I'd like to
4 ask Hearing Officer Fay, this is dealing directly
5 with the visual testimony that we already covered
6 for KOP1 and the whole, and Blanchard Road. And
7 it's really outside of the scope of the
8 alternatives testimony.

9 I understand the relationship, but it
10 really is straight out of -- I mean this is cross-
11 examination that should have been done during the
12 visual testimony.

13 MR. HARRIS: Can I respond?

14 HEARING OFFICER FAY: Yes.

15 MR. HARRIS: Well, I guess the
16 quintessence of the alternatives analysis is
17 analyzing the alternative relative to the project.
18 And so the relevance of Blanchard Road is that.

19 I've also cited specific locations in
20 the direct testimony, rebuttal testimony in this
21 case, where trees and shrubs and berms have been
22 offered for the first time as mitigation measures,
23 and I'm --

24 HEARING OFFICER FAY: Mitigation
25 measures at alternative sites?

1 MR. HARRIS: For a visual analysis in
2 general. It's the first time that it appears in
3 staff's testimony, in my view, that those
4 particular mechanisms for screening have appeared
5 and been used as part of a finding of no
6 significant impact.

7 And again, by citing directly to those
8 locations, I'm asking simply that instead of
9 applying a double standard here, I'd like the
10 standard applied evenly, in applying the standard
11 that staff applied to those alternative sites,
12 would that affect their testimony on KOP1.

13 HEARING OFFICER FAY: Okay, I'll let you
14 develop that. But we don't have all day and --

15 MR. HARRIS: I'm almost done with this,
16 actually.

17 HEARING OFFICER FAY: -- we don't want
18 to belabor it. Yeah.

19 MR. HARRIS: I've gotten to the
20 penultimate question.

21 HEARING OFFICER FAY: The objection's
22 overruled.

23 MR. WALKER: Would you like me to
24 respond to that?

25 MR. HARRIS: Well, let me see if I can

1 simplify it. So applying the concept of offsite
2 visual screening to KOP1, if you were to screen,
3 and let's say against the north side, I think
4 Gary's correct, on the north side of Blanchard
5 Road so that folks on Blanchard Road couldn't see
6 the project to the north, isn't that one means
7 that could be effective to reduce the visual
8 impacts from the Metcalf Center?

9 MR. DONALDSON: Just to help kind of
10 draw a little bit of a parallel that provides some
11 context to this, if you remember the analysis that
12 we performed from Fisher Creek and the views,
13 where the applicant actually proposed a dense
14 screen of evergreen hedge along there that
15 actually blocked views of the power plant, what we
16 concluded there was -- what I concluded there in
17 my testimony was that that dense screen, yes, it
18 was effective in blocking those views of the power
19 plant, however it was also highly effective at
20 blocking the other views of the open landscape,
21 the hills surrounding the trees and the overall
22 visual context there.

23 Therefore, if you consider that that was
24 a site specific situation regarding Fisher Creek,
25 where the visual quality was actually reduced by a

1 proposed mitigation measure that you propose for
2 the -- from Fisher Creek, drawing that parallel,
3 if you were to place a dense screen between
4 Blanchard Road, near Blanchard Road residences,
5 also screen the power plant, you would effectively
6 be accomplishing the same thing as that dense
7 hedge from --

8 INTERVENOR: -- blind those people on
9 Blanchard Road.

10 MR. DONALDSON: -- Fisher Creek, which
11 is blocking the views of the hills, the existing
12 trees, the elements that provide that view with
13 its moderately high visual quality, and provide it
14 with that visual character that is rural in
15 character.

16 Therefore, you also remember that you
17 proposed landscaping to -- offsite landscaping
18 over by Coyote Ranch. And that was, we considered
19 that an effective measure along that road from
20 that location.

21 So, I guess in response to that, as Gary
22 said, I'll reiterate, that every situation needs
23 to be looked at individually. And to assume one
24 situation for views from highway 237 or Zanker
25 Road or the area along Fremont Road, for

1 alternative 3, and then to try to apply the same
2 principle to Blanchard Road is really not
3 considering the context, the local visual context.

4 Therefore, I would have to disagree with
5 the statement, as Gary did, as well.

6 MR. HARRIS: That's fair enough, and you
7 did mention the offsite screening on Coyote Ranch
8 that was part of the visual testimony. And I
9 think that was effective.

10 Would it be valuable for the decision
11 makers in this case to consider the possibility of
12 adding a condition that requires screening along
13 the north side of Blanchard Road?

14 MR. DONALDSON: Again, I believe that
15 that screen along the north side of Blanchard
16 Road, as I just explained a moment ago, would, in
17 effect, block the open views of the landscape and
18 reduce the visual quality by creating a, in a
19 sense, a green screen along that area.

20 MR. HARRIS: It would also block views
21 of the existing transmission lines coming down
22 Tulare Hill and existing views of the Metcalf
23 substation which can be seen from the extreme east
24 end of Blanchard Road, is that correct? If
25 properly implemented.

1 MR. DONALDSON: The photographs and
2 visual simulations that you provided, I don't
3 remember seeing the Metcalf substation in those
4 visual simulations. I don't believe it's in those
5 pictures that you provided from KOP1.

6 MR. HARRIS: I'm sorry, you're right,
7 not from KOP1. I was talking the extreme east end
8 of Blanchard driveway, let's call it.

9 MR. DONALDSON: Extreme east end of
10 Blanchard Road near the railroad tracks? I'm not
11 clear on where you're talking about.

12 MR. HARRIS: I think both extreme ends
13 of Blanchard, the east end and the west end.
14 There are glimpses, and in some cases, direct
15 views, of the Metcalf substation. I'm not going
16 to ask you to confirm or deny --

17 MS. CORD: I don't think that's in
18 evidence that there's any view of the Metcalf
19 substation from anywhere on Blanchard. As someone
20 who lives here, I'd like to see that --

21 HEARING OFFICER FAY: Okay, Ms. Cord,
22 please --

23 MR. HARRIS: We can take a walk later,
24 if you'd like.

25 HEARING OFFICER FAY: Let's hold off.

1 MR. HARRIS: I'm almost done with this.

2 HEARING OFFICER FAY: Okay.

3 MR. HARRIS: I've got one more question.

4 Mr. Donaldson, you remember the Delta Energy
5 Center project?

6 MR. DONALDSON: Yes, I worked on that
7 project.

8 MR. HARRIS: And initially found a
9 significant impact there, is that correct?

10 MR. DONALDSON: Yes, we did. I have to
11 go back in my memory banks a little bit, but, yes,
12 we found significant visual impact there.

13 MR. HARRIS: Part of the mitigation for
14 the Delta Energy Center was an offsite oleander
15 hedge essentially that blocked an existing water
16 well station. In that case you found that
17 oleander hedge, even though it blocked partially
18 the views of the San Joaquin River, to be an
19 effective offsite screening mitigation, did you
20 not?

21 MR. DONALDSON: Boy, that's been several
22 years ago. I would have to go back and really
23 review that to look at, again, the context of
24 that. I do remember that we did identify actually
25 opening up some views of the San Joaquin River,

1 and then screening some other views of the power
2 plant. But that's -- maybe Gary remembers more
3 specifically, but I really don't.

4 MR. HARRIS: You can answer?

5 MR. WALKER: As I recall there was a
6 proposed mitigation plan for enhancing the visual
7 aspects of Dallas Slough to compensate for the
8 impacts of the proposed project, and the loss of
9 views both from the proposed project and from the
10 vegetative screening that would also be provided.

11 And that's why with that offsetting
12 mitigation it was not considered significant.

13 MR. HARRIS: Okay, thank you. I want to
14 talk about landscaping now, and landscaping in
15 terms of two things. Number one, I'll start with
16 Mr. Donaldson, in terms of your view of
17 alternative sites 1 and 2, and the substation
18 there, what kind of assumptions did you make in
19 terms of landscaping as part of your determination
20 that there wouldn't be a significant visual impact
21 at alternative sites 1 and 2?

22 MR. DONALDSON: I don't believe I
23 considered, if you're asking about landscape
24 screening of the substation, I didn't consider
25 that in the analysis.

1 MR. HARRIS: Okay, so there was no
2 analysis of a landscape plan when you looked at
3 alternative sites 1 and 2?

4 MR. DONALDSON: No, I didn't -- I
5 actually did not assume that there would be
6 landscaping. However, you know, if there were, I
7 would assume it would be placed to help screen
8 views of that facility to a degree.

9 MR. WALKER: There is no landscaping
10 plan for that project at the moment.

11 MR. HARRIS: For alternative sites 1 and
12 2?

13 MR. WALKER: For the PG&E substation at
14 Los Esteros.

15 MR. HARRIS: I'm sorry, I think maybe
16 I'm confusing you, talking about two different
17 things. But, you're right, Gary, I'm sorry.

18 The proposed power plants and
19 alternatives, -- now I've confused myself, so let
20 me back up. I'll get to you with the power
21 plants, I thought I'd start with Joe with the
22 substations.

23 And the question again, in analyzing the
24 substation and the impact on the existing visual
25 quality, did you consider at all landscaping

1 issues?

2 MR. DONALDSON: Immediately around the
3 substation, or perhaps along Zanker Road, or even
4 highway 237?

5 MR. HARRIS: In making the determination
6 that the proposed Los Esteros substation would
7 degrade the visual quality of the area for
8 alternative sites 1 and 2, --

9 MR. DONALDSON: Yes, yeah.

10 MR. HARRIS: -- did that analysis
11 include the consideration of landscaping of the
12 proposed substation to mitigate the visual impacts
13 of that substation?

14 MR. DONALDSON: No, I did not consider
15 that landscaping would be a part of that
16 substation environment.

17 MR. HARRIS: Okay. Mr. Walker now. In
18 terms of alternative sites 1 and 2, you did do
19 some photosimulations that include landscaping, is
20 that correct?

21 MR. WALKER: Yes.

22 MR. HARRIS: What kind of landscaping
23 plan did you use in creating those visual
24 simulations?

25 MR. WALKER: Just a conceptual

1 landscaping plan. Just a -- approximately the
2 same size of existing vegetation, for instance
3 from -- that's what I used.

4 MR. HARRIS: So, what type of species
5 then were you using?

6 MR. WALKER: The same ones that would be
7 there already.

8 MR. HARRIS: And what level of maturity
9 is depicted in those?

10 MR. WALKER: They're mature, so specimen
11 trees would have to be installed, not new trees.

12 MR. HARRIS: How many years old were
13 those trees you used in depicting the landscape
14 plan?

15 MR. WALKER: I don't know, but we have
16 discussed with professional arborists the
17 feasibility of transplanting mature trees, and
18 they've said it is quite feasible.

19 MR. HARRIS: Give me a moment to find
20 the simulation I have in mind, if you would.
21 There are several here.

22 Compare, okay, your alternatives figure
23 14 is the Calpine/Bechtel document. And if you
24 look at that document, in the center of figure 14
25 of the alternatives you can see the power plant

1 through that center. Do you have that photo in
2 front of you?

3 MR. WALKER: Yes.

4 MR. HARRIS: And then on figure 19, so
5 several pages ahead, --

6 MR. WALKER: Those are about alt 3, not
7 1 and 2.

8 MS. WILLIS: I thought you were talking
9 about 1 and 2.

10 MR. HARRIS: Sorry. I'm sorry, you're
11 right, it is alternative 3. Let's move on to 3.

12 So figure 14 and figure 19. The reason
13 I jumped around, I apologize, you're right, I did
14 skip, and the reason that I jumped around is we
15 were on the issue of the maturity of the
16 landscaping. And to me this was kind of the most
17 stark example of mature landscaping, and so I
18 apologize for jumping 1 to 3, but I switched
19 sites, but I stayed on the same subject.

20 Let's talk about maturity of
21 landscaping. So comparing alternative site -- or
22 on the alternatives figure 14 and alternative
23 figure 19, in 19 the power plant essentially
24 disappeared.

25 Did you just move the existing tree in

1 the foreground, copy that and send it over, is
2 that what --

3 MR. WALKER: Yes.

4 MR. HARRIS: And you have no idea how
5 old that tree is?

6 MR. WALKER: No, but it doesn't matter
7 because a mature tree of that size, it wouldn't
8 matter how old it was, if it was transplanted to
9 that location, -- the same amount of mitigation.

10 MR. HARRIS: Would you be surprised if
11 an arborist suggested that the tree you've
12 transplanted in the simulation is in the order of
13 30 years old?

14 MR. WALKER: I wouldn't be surprised,
15 no.

16 MR. HARRIS: Okay, thank you.

17 (Pause.)

18 MR. HARRIS: Can you turn to figure 35,
19 I'm going on now to alternative site 4.

20 MR. AJLOUNY: Excuse me, Mr. Fay,
21 calculating the hour and 15 minutes, it looks to
22 be about five minutes left, and I didn't know if
23 that's what you have down. I wanted to give Mr.
24 Harris a five-minute warning.

25 MR. HARRIS: Thank you for thinking of

1 me.

2 MR. AJLOUNY: Considerate.

3 MR. HARRIS: I don't think it's a five-
4 minute warning, though.

5 Do you have 34 in front of you -- or 35
6 in front of you?

7 MR. WALKER: I do.

8 MR. HARRIS: Okay, the relative scale, I
9 want to figure out how you -- you essentially took
10 Calpine/Bechtel's photosimulation and you moved
11 the project away from the street, is that
12 essentially correct?

13 MR. WALKER: That's correct, yeah.

14 MR. HARRIS: How did you figure out the
15 relative scale of the location of the power plant
16 by picking it up and moving it farther away from
17 that street?

18 MR. WALKER: By the method demonstrated
19 in figure 34, that if it's twice as -- if the,
20 say, for instance the stacks are now, would be
21 moved from 600 feet away to 1200 feet away, then
22 the height of the facility would look half as tall
23 as it did in Calpine/Bechtel's simulation, which
24 is figure 32.

25 MR. HARRIS: How did you determine that

1 that location, then, is 600 feet farther away from
2 the road?

3 MR. WALKER: Because I placed the --
4 looked at the orientation of the facility and
5 placed that orientation, placed the footprint of
6 the project with the stacks on the farther side
7 away from the road, on the parcel map, a map of
8 the parcel.

9 MR. HARRIS: So does your -- I don't
10 know what program you used to make these kind of
11 drawings, but does this computer simulation
12 program allow you to know precisely that you've
13 moved this 600 feet back?

14 MR. WALKER: I don't understand your
15 question.

16 MR. HARRIS: I'm trying to understand --
17 I understand the concept you said to get it half
18 as big you moved it 600 feet from -- 600 to 1200,
19 we've established that.

20 Does the computer system that you used
21 to make these photosimulations, and I don't know
22 what, if it's CAD drawings or whatever they are,
23 does it have the ability to precisely calculate a
24 600-foot change in location from the original
25 simulation?

1 MR. WALKER: No. But we didn't have to.
2 All we had to go -- needed to go by was reducing
3 the height of the structures by 50 percent. So we
4 didn't need any computer program to do that at
5 all. You could do that with a ruler.

6 MR. HARRIS: Subject to check, you're
7 going to check the scaling related to figure 4, is
8 it possible that that error in scale has been
9 replicated and amplified in this photosimulation?

10 MR. WALKER: I don't see why it would be
11 amplified. It could be replicated if that's true,
12 and then it would be, I think you said 18 percent
13 larger than is shown in figure 34, right?

14 MR. HARRIS: Right, so the scale would
15 be off. You're right, potentially it was --

16 MR. WALKER: By 18 percent.

17 MR. HARRIS: -- replicated --

18 MR. WALKER: Potentially by 18 percent,
19 yes.

20 MR. HARRIS: Okay. The trees in the
21 foreground on figure 35, how tall are those trees?

22 MR. WALKER: They're approximately ten
23 feet tall. They're not all trees, they're shrubs,
24 too.

25 MR. HARRIS: So --

1 MR. WALKER: Small trees and shrubs.

2 MR. HARRIS: -- that's from a distance,
3 standing in the middle of the road, you can see
4 those are 10-foot trees, is that right?

5 MR. WALKER: Yeah, because the fence,
6 you know, is the normal standard cyclone fence
7 height, six feet.

8 MR. HARRIS: Okay. I want to move on to
9 the Borden site, and I'll go back to site 3. With
10 relation to an alternative that I'm actually
11 calling site 3A, you found 17 additional acres.

12 Do you have --

13 MR. WALKER: No, I didn't find them, I
14 simply made a correction that the site was
15 actually 17 acres larger than I had said before.
16 It's still the same property.

17 MR. HARRIS: So you didn't find an
18 additional 17 acres, you were off on the magnitude
19 of two times on how large that actual acreage was?

20 MR. WALKER: Yes, because if you'll look
21 at figure 1, you'll see that what's shown there as
22 parcel 4-4 with a circle around it of 15.89 acres,
23 is similar in shape to the parcel 29-3 right above
24 it. And until I looked at the aerial photo which
25 identified that the evaporation pond that you can

1 see in figure 2, partly blocked out by the white
2 area of the superimposed project, is actually on
3 parcel 29-3, not on parcel 4-4, which was the
4 originally identified 15.89 acre parcel, which is
5 what I thought was the total size of the site.

6 So, the whole site is actually over 33
7 acres in size.

8 MR. HARRIS: Okay, is it correct,
9 though, that this 17 acres was never identified
10 prior to your rebuttal testimony in this
11 proceeding?

12 MR. WALKER: The 17 acres, per se, was
13 never mentioned, but the evaporation pond, for
14 instance, was mentioned and commented upon by the
15 applicant, as far as being a potential problem for
16 siting on a parcel of only 10 acres. So
17 apparently the applicant also thought that the
18 evaporation pond was on the 10 acres. And it's
19 not.

20 MR. HARRIS: Referring to your
21 testimony, now, what can you tell me about the
22 evaporation ponds in terms of whether that's an --
23 is that an active evaporation pond?

24 MR. WALKER: I have not investigated
25 that.

1 MR. HARRIS: Do you know who owns that
2 evaporation pond?

3 MR. WALKER: No, I do not.

4 MR. HARRIS: Do you have any idea
5 whether that pond is currently being used for
6 storm water storage?

7 MR. WALKER: I do not.

8 MR. HARRIS: I don't either, by the way,
9 I'm --

10 MR. WALKER: The point is that that pond
11 would not have to be affected to have the project
12 on this property.

13 MR. HARRIS: What about the availability
14 of this site? It's my understanding this site
15 recently sold. Is that your understanding?

16 MR. WALKER: No.

17 MR. HARRIS: Would you be surprised to
18 know that this property sold recently for \$10.732
19 million to Borden?

20 MR. WALKER: What was your question
21 again, please?

22 MR. HARRIS: Would it surprise you to
23 learn that that property was recently purchased by
24 Borden for the amount of \$10.732 million?

25 MR. WALKER: No.

1 MR. HARRIS: And in your professional
2 experience -- that works out to about \$625,000 an
3 acre -- in your professional experience, is that
4 above market price for an acre of industrial
5 property?

6 MR. AJLOUNY: He's not qualified --

7 MS. WILLIS: I'm going to object only to
8 the extent that he knows the cost of industrial
9 property. I don't know that that's part of his
10 testimony.

11 HEARING OFFICER FAY: Mr. Walker, do you
12 have knowledge of that?

13 MR. WALKER: I do not have, no.

14 HEARING OFFICER FAY: Okay, there you
15 go.

16 MR. HARRIS: Fair enough. So you have
17 no knowledge, and there's nothing in your
18 testimony related to the legal ownership of that
19 property, is that correct?

20 MR. WALKER: You're specifying that
21 parcel versus the other parcel?

22 MR. HARRIS: The Borden parcel, the new
23 17 acres that you found.

24 MR. WALKER: The -- parcel?

25 MR. HARRIS: Yeah.

1 MR. WALKER: Well, the whole site, my
2 assumption was that the whole site was owned by
3 Borden. Now you're informing me that Borden just
4 bought that parcel, the 17-acre parcel. I did not
5 know that, so now the characterization that the
6 site is owned by Borden is accurate.

7 HEARING OFFICER FAY: Mr. Harris, can
8 you give us an idea of how much longer? It has
9 been an hour and a quarter.

10 MR. HARRIS: I think I can finish in 15
11 minutes.

12 HEARING OFFICER FAY: Fifteen minutes --

13 MS. CORD: We don't get 15 minutes --

14 MR. AJLOUNY: Well, that --

15 MR. HARRIS: That would be my 45 minutes
16 for my direct testimony on my alternatives, and my
17 original 45-minute estimate. And I'll keep it
18 less than that, actually, --

19 HEARING OFFICER FAY: We're still ahead
20 of the game. You still saved us some time.

21 MS. CORD: Could you just remind me how
22 many minutes he had down?

23 HEARING OFFICER FAY: He had 45 minutes
24 down for his direct.

25 MS. CORD: And how much has it been?

1 MR. HARRIS: And 45 for my --

2 HEARING OFFICER FAY: Well, and, of
3 course that saved --

4 MS. CORD: I'm asking Mr. Fay.

5 HEARING OFFICER FAY: -- everybody's --
6 and then logically you'd add the cross to that,
7 too, which was avoided, too. So, I mean it saved
8 everybody more time than he has taken.

9 MR. HARRIS: I can finish in less --

10 HEARING OFFICER FAY: Okay.

11 MR. HARRIS: I'll try to finish in five
12 minutes, how's that?

13 MR. AJLOUNY: Okay, I'm starting the
14 clock.

15 MR. HARRIS: Go ahead.

16 So in terms of alternative site 3,
17 you're not sure who owns it and you're also not
18 sure whether there's a lease-back arrangement or
19 any other kind of commercial arrangement with that
20 property?

21 MR. WALKER: Well, I'm sure now because
22 you just told me that Borden owns it.

23 MR. HARRIS: Do you know whether that
24 property's been leased back by CertainT?

25 MR. WALKER: No, I don't.

1 MR. HARRIS: Okay, thank you. I'm going
2 to go through briefly now all six sites, but I
3 want to focus on 1 through 4, with one particular
4 question. And the question is very direct.

5 I want you to point to, in your prefiled
6 testimony, evidence of site availability. And the
7 basic question we're getting at here is for an
8 alternative to be a real alternative you have to
9 be able to actually acquire the site.

10 And so for alternative site 1, will you
11 point to your prefiled testimony, the location
12 that states that the site is available for
13 purchase?

14 MR. WALKER: Excuse me, you said site 6
15 first, --

16 MR. HARRIS: No, I'm sorry, --

17 MR. WALKER: -- now you're saying site
18 1?

19 MR. HARRIS: -- I said all six. All
20 six.

21 MR. WALKER: Oh, all six.

22 MR. HARRIS: Yeah, not --

23 MR. WALKER: Okay.

24 MR. HARRIS: Sorry about that. I'm not
25 enunciating. Let's go back, alternative site 1,

1 in your prefiled testimony can you show me where
2 the availability of that site for purchase is
3 demonstrated?

4 MR. WALKER: Let's see. The staff used
5 the fact that the applicant, Calpine, had filed
6 for general plan amendment for sites 1 and 2 to
7 indicate that it was available for a power plant.

8 MR. HARRIS: Okay, let me be more
9 precise in my question, then. In your testimony,
10 other than you talked about general plan
11 amendment, that has nothing to do with ownership,
12 my understanding is you can ask for a general plan
13 amendment on a property you don't even own.

14 So, in terms of indicia of ownership or
15 ability to purchase, can you point to your
16 testimony where that site would be available for
17 purchase?

18 MR. WALKER: We didn't consider actual
19 ownership to be necessary because typically --
20 well, it's common that power plants aren't --
21 property isn't owned by the power plant developer.
22 It can be leased, and there can be options for
23 lease or purchase. And you can correct me if I'm
24 wrong, but I assumed that Calpine had some sort of
25 site control over those sites or they wouldn't

1 have proposed a general plan amendment.

2 MR. HARRIS: I don't want to be
3 argumentative. Let me come at it this way. Your
4 evidence of site availability then is the general
5 plan amendment that was filed previously, is that
6 fair?

7 MR. WALKER: Yes.

8 MR. HARRIS: Okay. How about
9 alternative site 2, what do you have in terms of
10 showing that site being available?

11 MR. WALKER: As I said, both 1 and 2
12 were that way.

13 MR. HARRIS: Okay, I'm sorry, I didn't
14 hear that. So your indicia of availability for 1
15 and 2 is the general plan amendment that was
16 previously filed?

17 MR. WALKER: Yes.

18 MR. HARRIS: Okay, thank you. Site 3,
19 in your testimony where are the indicia that that
20 site would be available for purchase by Calpine?

21 PRESIDING MEMBER LAURIE: This will be
22 your last line of questioning?

23 MR. HARRIS: Absolutely, it is. I just
24 want to go through all six, and I'm waiting for
25 Mr. Walker's responses.

1 (Pause.)

2 MR. WALKER: Yeah, I have to say that
3 there is no specific written testimony that
4 addresses that particular ownership. There has
5 been subject, though, of data request, data
6 responses, filing by the staff regarding that
7 property. And that it was owned by Serra
8 Corporation. In fact, that's mentioned earlier in
9 the testimony that it was owned by Serra
10 Corporation, and I had specific conversations with
11 Serra Corporation about the availability of that
12 property.

13 MR. HARRIS: Are you on site 4 now?
14 Serra is site 4, isn't it?

15 MR. WALKER: Oh, I'm sorry. You're
16 talking about site 3?

17 MR. HARRIS: Yes, I'm sorry.

18 MR. WALKER: I'm sorry.

19 MR. HARRIS: I wanted to go through them
20 in order.

21 MR. WALKER: I jumped to 4.

22 MR. HARRIS: Yeah, --

23 MR. WALKER: Sorry.

24 MR. HARRIS: -- so was the answer for 3
25 that there was no information in your written

1 testimony? We're not communicating, I'm sorry.

2 I think you answered my question and I
3 didn't ask the next one.

4 MR. WALKER: Well, no, actually for site
5 3 it's correct that there is nothing written here,
6 but what I was saying about site 4 is actually
7 analogous for site 3, that that's the site, the
8 Borden site that I had also called the
9 representative for them about. And got the answer
10 from, through that real estate representative that
11 it was potentially available.

12 MR. HARRIS: Okay, and that answer would
13 apply to what I've called 3A, as well, the 17
14 acres that are identified in your rebuttal
15 testimony?

16 MR. WALKER: Yes.

17 MR. HARRIS: Okay, for site 4, what
18 indicia of availability do you have there?

19 MR. WALKER: That's the Serra property,
20 and I talked to the Serra Corporation about that.
21 And they said it was available.

22 MR. HARRIS: Is that in your prefiled
23 written testimony?

24 MR. WALKER: Actually we only addressed
25 the fatal flaw that Calpine had asserted in regard

1 to the site and the previous ownership, and the
2 restriction on the deed from General Motors
3 Corporation, but it's also the case, even though
4 it's not in here, that as I said, I contacted the
5 Serra people who -- Corporation, who bought it
6 from General Motors, and they're the ones who said
7 it would be available.

8 MR. HARRIS: Okay, fair enough. Site 5,
9 what indication do you have that that might be
10 available for purchase?

11 MR. WALKER: I talked to the real estate
12 agent for both sites 5 and 6. They are both for
13 sale. Site 5 has a for sale sign on it.

14 MR. HARRIS: And is that in your
15 prefiled written testimony?

16 MR. WALKER: No, it isn't, but that's
17 the case. I'm now amending the testimony to
18 reflect that.

19 MR. HARRIS: Fair enough. Fair enough.
20 I think that's all I have. That was my last line
21 of questions.

22 HEARING OFFICER FAY: Okay, great.

23 MR. AJLOUNY: Can I recommend a five-
24 minute potty break and let the record show that my
25 family has come here to visit me. I'd like to

1 introduce my family to my favorite Calpine and
2 Bechtel friends.

3 HEARING OFFICER FAY: All right, we will
4 take a five-minute break for whatever reason
5 people choose.

6 (Laughter.)

7 (Brief recess.)

8 HEARING OFFICER FAY: Okay, Mr. Ajlouny.

9 MR. AJLOUNY: Okay.

10 CROSS-EXAMINATION

11 BY MR. AJLOUNY:

12 Q I guess I want to direct my first set of
13 questions to Mr. Donaldson. On page --

14 HEARING OFFICER FAY: He's not here
15 right this second.

16 MR. AJLOUNY: Oh, I didn't look first.

17 HEARING OFFICER FAY: Even staff's
18 counsel are not here.

19 MR. AJLOUNY: I guess my visual impacts
20 were impacted here, I didn't look.

21 HEARING OFFICER FAY: That would be
22 first.

23 MR. AJLOUNY: Well, I can -- let's go
24 to --

25 MR. WALKER: Just a second, here they

1 come.

2 MR. AJLOUNY: Oh. Restart the clock,
3 5:15.

4 Mr. Donaldson, I'd like to direct my
5 first set of questions to you in response to the
6 KOP number 1 scenario, or the idea of demolishing
7 homes, KOP1 won't be there, what's the outcome.

8 So can I direct you to page 319 of your
9 testimony, please.

10 MR. DONALDSON: Actually I don't have
11 that testimony in front of me. I only have the
12 alternatives testimony.

13 MS. WILLIS: Just for clarification,
14 that's visual --

15 MR. AJLOUNY: Yes, that's visual, but
16 that's only because I was led there by my buddies
17 at Bechtel and Calpine. This will be short
18 hopefully.

19 MR. DONALDSON: Okay, I don't have it in
20 front of me, but --

21 MR. AJLOUNY: Okay, I have it, and I --

22 MR. DONALDSON: -- I'll try to --

23 MR. AJLOUNY: -- can wing it.

24 MR. DONALDSON: Okay.

25 MR. AJLOUNY: It's not going to be

1 specific.

2 MR. DONALDSON: Thank you.

3 MR. AJLOUNY: So that was, for the
4 record, I think what, did I say 320 and '21?

5 MR. DONALDSON: You said 319 and --

6 MR. AJLOUNY: 319 and '20. There you
7 go, thank you. So, on those two pages where it's
8 titled, now you're going to have to help me, where
9 I highlighted it there, --

10 MR. DONALDSON: Yes.

11 MR. AJLOUNY: -- it's titled --

12 MR. DONALDSON: Under significance
13 criteria at the bottom of page 319.

14 MR. AJLOUNY: Okay, yeah. Right there,
15 you know, you start reading, you talk about CEQA
16 and I just really want to highlight this. From
17 what I remember back in visual, and then you have
18 items 1, 2, 3, and 4 listed. Number one, would
19 the project have a substantial adverse effect, and
20 you know, so forth.

21 And then you have another paragraph, and
22 then it talks about the City and its bullets of
23 its concerns. And then based on the CEQA
24 guidelines you have three more specific bullets,
25 conflict with any applicable policies; second one,

1 substantial reduction individuals; creation of new
2 source of substantial, whatever.

3 You're familiar with that?

4 MR. DONALDSON: Yes.

5 MR. AJLOUNY: That's your testimony?

6 MR. DONALDSON: Yes.

7 MR. AJLOUNY: So, from what I read
8 there, and then looking down into the further
9 pages, and hopefully you'll remember you did a
10 chart going by each visual location, maybe KOP or,
11 I don't know if it's all KOPs, but you put high
12 impact, somewhat high, things like that you listed
13 on the table?

14 MR. DONALDSON: Yes, I remember that.

15 MR. AJLOUNY: Reading all that kind of
16 stuff, hypothetically, if KOP1 was never there, I
17 mean applicant put in their application and never
18 had KOP1 there, never there, from reading all that
19 it sounds like to me, and help me if I'm wrong,
20 but it sounds like to me that it basically doesn't
21 belong there from all this other visual impacts
22 and surroundings. Is that true?

23 MR. DONALDSON: Well, if you're
24 referring to the analysis that talks about the
25 combination of views and the fact that I did find

1 a significant visual impact for the power plant,
2 significant and unmitigable for the combination of
3 views from throughout the surrounding area, then,
4 yes, that's correct.

5 MR. AJLOUNY: Okay, I just wanted to
6 clarify that, because I saw a lot of time spent on
7 demolishing a home and stuff, so thank you for
8 that. Sounds like it really wouldn't matter if
9 that home's there or not, it just doesn't belong
10 there. That's Issa's words, but --

11 MR. DONALDSON: Okay. If there was not,
12 if I understand and try to rephrase, if there was
13 not a KOP1, and if there were not homes on
14 Blanchard Road and so forth, the answer, I
15 believe, to your question is yes, there would be a
16 significant and unmitigable visual impact due to
17 the power plant because of the combination of
18 views. And that was my finding in my testimony.

19 MR. AJLOUNY: Right, I thought I read
20 that, and I just -- got a nerve of mine, you can
21 probably tell that.

22 Okay. I want to thank you, Mr.
23 Donaldson.

24 My next set of questions, I don't know
25 who this would be to, but whoever knows this can

1 answer it. Isn't it true that Calpine filed an
2 application for sites 1 and 2 to the City of San
3 Jose? Who would answer that?

4 MS. WILLIS: Could you clarify what kind
5 of application?

6 MR. AJLOUNY: For general plan change.

7 MR. WALKER: Yes, I'm aware that they
8 did file such an application.

9 MR. AJLOUNY: Are you familiar with the
10 data request that shows, a data request that shows
11 the applicant -- wait a minute, let me read it
12 first, and I'll say it right -- there's a data
13 request that showed, and the answer to a data
14 request that showed the applicant withdrew the
15 general plan amendment for sites 1 and 2 because
16 of the uncertainty of Los Esteros PG&E substation.

17 MR. WALKER: That's my recollection of
18 their response.

19 MR. AJLOUNY: Does anyone else remember
20 that?

21 MS. WILLIS: Could you be more specific
22 about what data requests and date --

23 MR. AJLOUNY: See, I got tons of stuff
24 at home. But there was a data request about why
25 the application was withdrawn. And the answer,

1 the key thing that sticks in Issa's mind is it was
2 withdrawn because they didn't know about the
3 substation.

4 HEARING OFFICER FAY: And that's been
5 answered.

6 MR. AJLOUNY: Yes, okay.

7 HEARING OFFICER FAY: They don't have
8 the specific reference, but --

9 MR. AJLOUNY: But it sounds like
10 someone, --

11 HEARING OFFICER FAY: Yes.

12 MR. AJLOUNY: -- Mr. Walker remember.

13 HEARING OFFICER FAY: They agreed.

14 MR. AJLOUNY: Okay. And I remember just
15 recently we didn't know if Calpine had an option
16 for that site to buy it, you don't necessarily
17 have to have an option or own or control that land
18 to have an amendment is what I heard in testimony,
19 right? Just recently? I mean just a few minutes
20 ago.

21 MR. WALKER: I don't think that specific
22 question was addressed.

23 MR. AJLOUNY: Okay. Well, would it
24 be --

25 MR. WALKER: There was a --

1 MR. AJLOUNY: -- reasonably to assume
2 that one would not put an application for a
3 general plan change unless they had site control?

4 MR. WALKER: I think that's reasonable,
5 and that's the assumption that I made. Some kind
6 of option, at least, on the property.

7 MR. AJLOUNY: Okay. I guess I'm going
8 to stop there because some of those questions were
9 to the applicant, and I can't ask the staff to
10 answer them.

11 So, can I direct in the -- well, I
12 didn't put my direction on who to ask, so I'm
13 figuring it out. Mr. Walker, did you prepare the
14 PSA section of alternatives?

15 MR. WALKER: Yes, I did.

16 MR. AJLOUNY: I'm going to be real
17 careful in saying this, did anything change in the
18 comparison, in the current project to the
19 alternatives 1, 2, 3 and 4?

20 MR. WALKER: Could you clarify that
21 question?

22 MR. AJLOUNY: Okay. Did anything change
23 in the comparison, in the current project that we
24 have today, --

25 MR. WALKER: You mean between the PSA

1 and the FSA?

2 MR. AJLOUNY: Yes. I'm sorry, I'm
3 referencing -- yes, between the -- did anything
4 change in comparison in the current project have
5 today in the PSA and the alternatives to what we
6 in the FSA? For just alternate sites 1, 2, 3 and
7 4?

8 MR. WALKER: In regard to the sites, are
9 you talking about in the comparison, or in the
10 sites, the information on the sites, themselves?

11 MR. AJLOUNY: In the comparison.

12 MR. WALKER: Okay. The information on
13 the sites that we had, we did additional analysis,
14 like I was saying, the technical experts provided
15 a lot more information and analysis to me to
16 prepare the FSA, and that's included in the FSA
17 testimony on the alternative sites.

18 It did not change any of the conclusions
19 that we'd reached, that we did not expect any
20 significant environmental impacts from sites 3 and
21 4, for instance. And that the issues regarding
22 sites 1 and 2 were the same as initially
23 identified. The zoning general plan designation
24 issues.

25 In regard to the proposed site, in the

1 preliminary assessment, staff had identified
2 several different technical areas in which there
3 was a potential for significant impacts. Some of
4 those areas were addressed by changes in the
5 project and mitigation that the applicant
6 developed, such as the biology, so those concerns
7 were removed.

8 And what remained was the significant
9 land use and visual impacts that staff confirmed
10 in the final staff assessment, which sites for
11 visual 1, 2, 3 and 4 would avoid, and for sites 1
12 and 2, they would avoid the significant visual
13 impacts. And that comparison remained the same.

14 MR. AJLOUNY: Okay, but I think I heard
15 you say in the first part of your answer,
16 basically your conclusions of alternates 1, 2, 3
17 and 4 didn't change?

18 MR. WALKER: The conclusions that they
19 were alternatives that could avoid one or more,
20 avoid or substantially reduce one or more of the
21 significant impacts of the proposed project, and
22 not create any new different impacts than the
23 proposed project, remains the same.

24 MR. AJLOUNY: Okay. I'm going to try to
25 challenge your memory here. On page 483 of the

1 PSA the last sentence of the first paragraph,
2 staff cites alternates 3 and alternate 4 are
3 environmentally superior alternative to the
4 proposed site. Do you remember writing that?

5 MR. WALKER: Yes.

6 MR. AJLOUNY: Okay, good. That wasn't
7 hard. Might be less than two hours.

8 Do you still feel that --

9 MR. HARRIS: Was that -- I'm sorry, was
10 that the PSA you read from right there?

11 MR. AJLOUNY: Yes.

12 MR. HARRIS: Okay.

13 MR. AJLOUNY: I just read the last
14 sentence of the first paragraph.

15 MR. HARRIS: Of the PSA? I'm sorry,
16 what page was that?

17 MR. AJLOUNY: 483.

18 MR. HARRIS: Of the PSA? Okay.

19 MR. AJLOUNY: Do you still feel that
20 that's true?

21 MR. WALKER: Yes, --

22 MR. AJLOUNY: In your expert opinion?

23 MR. WALKER: -- yes.

24 MR. AJLOUNY: So you still feel that's
25 true today?

1 MR. WALKER: Yes.

2 MR. AJLOUNY: Okay. Why do you still
3 feel that's true?

4 MR. WALKER: As I just said, because
5 they would -- well, in the case of 3 and 4, they
6 would avoid both of the significant unmitigable
7 impacts identified for the proposed project. And
8 staff did not expect that they would cause any
9 significant unmitigable impacts of their own.

10 MR. AJLOUNY: Well, if you're hearing
11 frustration in my voice it's because I'm a little
12 frustrated. Then, Gary, or Mr. Walker, whatever,
13 help me understand why you took the word out
14 superior in the PSA and it's not the FSA?

15 MS. WILLIS: I'm going to object to
16 relevance. The PSA isn't our testimony. The
17 testimony is our FSA and the accompanying rebuttal
18 testimony.

19 MR. AJLOUNY: I have a --

20 MS. WILLIS: The PSA is a draft.

21 HEARING OFFICER FAY: You can --

22 MR. AJLOUNY: I have a point here,
23 though.

24 HEARING OFFICER FAY: Okay, and I'll
25 give you a chance to respond. But, it is relevant

1 to ask about the PSA in terms of how he developed
2 his analysis. But his testimony is only the FSA
3 and --

4 MR. AJLOUNY: I understand. No, I
5 understand that, but I'm going to go somewhere
6 with this hopefully.

7 So why did you take the word superior
8 out?

9 MR. WALKER: Between the PSA and the FSA
10 there -- well, when I wrote the first draft of the
11 FSA there were comments on that draft from our
12 legal counsel and management, you know,
13 recommending and advising changes be made from the
14 PSA.

15 MR. AJLOUNY: Okay, wait a minute. I'm
16 sorry, it's a little bit -- can you just repeat
17 that again, the answer to that?

18 HEARING OFFICER FAY: Wait, no, asked
19 and answered.

20 MR. AJLOUNY: No, okay, well, did I hear
21 then -- I'll reiterate. Did I hear that --

22 PRESIDING MEMBER LAURIE: He doesn't
23 have to repeat it --

24 MR. AJLOUNY: Okay.

25 HEARING OFFICER FAY: It's in the

1 record. It's just as good as --

2 MR. AJLOUNY: Did I hear you say that
3 there were documents or management asked you to
4 take the word superior out? I thought I heard him
5 say that?

6 MR. WALKER: I didn't say those specific
7 words. But that's true.

8 MR. AJLOUNY: So it wasn't your choice
9 to take the word superior out?

10 MR. WALKER: That's true.

11 MR. AJLOUNY: Okay, great. Good, we're
12 getting somewhere.

13 Have you prepared alternatives analyses
14 for other power plant projects?

15 MR. WALKER: Yes, I have.

16 MR. AJLOUNY: How many have you
17 prepared?

18 MR. WALKER: About a half dozen.

19 MR. AJLOUNY: You say like six?

20 MR. WALKER: Six or more, yeah, about
21 between six and eight, something like that.

22 MR. AJLOUNY: Okay. How long have you
23 worked for the Energy Commission on power plants?

24 MR. WALKER: Twenty-one years.

25 MR. AJLOUNY: Okay, 21 years. Okay,

1 well, then let me -- a little side for my thing,
2 here.

3 Twenty one years in -- you did six
4 alternate preparations in 21 years. What else did
5 you do, I guess, in that 21 years? What other --

6 (Laughter.)

7 MR. AJLOUNY: I don't mean to be --

8 HEARING OFFICER FAY: Issa, can you
9 tighten that up a little bit?

10 MR. AJLOUNY: What's that?

11 HEARING OFFICER FAY: Can you be more
12 specific?

13 MR. AJLOUNY: Okay, I'll --

14 MR. WALKER: Yeah, how long do you have,
15 Mr. Ajlouny?

16 MR. AJLOUNY: What's that?

17 MR. WALKER: How long do you have for me
18 to answer that question?

19 MR. AJLOUNY: Okay, I'm sorry. In
20 working with the Energy Commission, you know, I
21 try to develop these questions, but I don't know
22 what the answers are, so.

23 In working with the Commission for 21
24 years and you did six alternate sites, I imagine
25 you had other responsibilities?

1 MR. WALKER: Many.

2 MR. AJLOUNY: Okay, what other, you
3 know, what other responsibilities did you have?

4 MR. WALKER: Well, for a few years

5 I --

6 MR. AJLOUNY: Briefly.

7 MR. WALKER: Yeah. For a few years in
8 that period I was a project manager, and I did
9 alternatives analysis for the projects that I was
10 the project manager for. That was about three or
11 four projects.

12 After that I became technical specialist
13 and I've done alternatives analysis for three
14 major projects, Three Mountain project, this
15 Metcalf project, and for the SEPCO project.

16 MR. AJLOUNY: What was that last one?

17 MR. WALKER: SEPCO, S-E-P-C-O. It was a
18 project in the Sacramento area.

19 MR. AJLOUNY: Okay, what --

20 MR. WALKER: I've also, in that period,
21 was assigned, of course, to do technical work,
22 cultural resource work, socioeconomics work, land
23 use work, transportation and visual analysis.

24 MR. AJLOUNY: Okay. So, how long have
25 you done alternatives?

1 MR. WALKER: Well, I started early on,
2 from the very first project I worked on. I did
3 some in the second project. So, about 1980 I
4 started doing alternatives work.

5 MR. AJLOUNY: Okay, so to recap my mind,
6 you've been working 21 years, you started in 1980
7 and you've done only six alternate sites?

8 MR. WALKER: Alternatives analyses.

9 MR. AJLOUNY: Alternatives.

10 MR. WALKER: Approximately six.

11 MR. AJLOUNY: Okay.

12 MR. WILLIAMS: Because of the limited
13 number of applications --

14 MR. AJLOUNY: Wait, wait, wait. Well,
15 why have you done so little alternatives?

16 MS. WILLIS: I'm going to object. We
17 did stipulate at the beginning that the witnesses'
18 qualifications, you know, would be --

19 HEARING OFFICER FAY: Yes, --

20 MS. WILLIS: -- and prefiled --

21 HEARING OFFICER FAY: -- are you
22 challenging his qualifications?

23 MS. WILLIS: Now at this point to be --

24 MR. AJLOUNY: No, I am not challenging,
25 trust me, I'm getting excited here.

1 HEARING OFFICER FAY: Okay, --

2 (Laughter.)

3 HEARING OFFICER FAY: That's what I'm
4 worried about.

5 (Laughter.)

6 HEARING OFFICER FAY: Issa, could you
7 tell us where you're going with this?

8 MR. AJLOUNY: Yes, --

9 SPEAKER: You say Gary's got 20
10 employees.

11 MR. AJLOUNY: No, no, no, no.

12 HEARING OFFICER FAY: Okay, where is
13 this heading?

14 MR. AJLOUNY: I guess here's the point I
15 want to make, and I was guessing, it looks like I
16 might be right. And I won't know, I'm afraid to
17 spill the beans and then he might change his
18 answer.

19 HEARING OFFICER FAY: Well, I think we
20 need to know what direction you're going with this
21 line.

22 MR. AJLOUNY: I guess the direction I
23 want to go is, you know, and I've done a lot --
24 you know, and these questions come because I do a
25 lot of investigation. So I guess my feeling, I'm

1 testifying now, and I'm trying to stay away from
2 that.

3 HEARING OFFICER FAY: Just tell me what
4 you --

5 MR. AJLOUNY: Okay, where I'm trying to
6 go is it sounds like alternatives, from what I
7 understand, alternatives are getting to be very
8 detailed and more extensive than the average for
9 complex situations, where alternatives play a big
10 role in an application.

11 And I guess I'm trying to establish that
12 this is a major issue, this power plant, and so
13 alternatives needed a specialist, and I think Gary
14 might be the specialist.

15 HEARING OFFICER FAY: Okay, well, --

16 MR. AJLOUNY: So I guess that's where I
17 was going.

18 HEARING OFFICER FAY: -- why don't you
19 just ask that.

20 MR. AJLOUNY: Okay. Well, I kind of
21 just said it, Gary.

22 MR. WALKER: I heard your statement.
23 Can you form it into a question?

24 MR. AJLOUNY: Well, I guess --

25 HEARING OFFICER FAY: Consider it a

1 question, Mr. Walker, is that correct?

2 MR. WALKER: I'll consider it a
3 question. Is that true? Yes, that's true. The
4 reason I was asked to do alternatives analysis for
5 the three projects that I mentioned that I did
6 more detailed work on, the SEPCO project, Three
7 Mountain project and this project, is because
8 those were all considered to have potential or
9 significant adverse unmitigated impacts, and they
10 were complex projects with several potential such
11 impacts.

12 And I was asked to do the analysis in a
13 much more detailed fashion than we normally do on
14 power plants with those three projects.

15 MR. AJLOUNY: Okay, great. Thank you
16 for your help, many, anytime, buddy. Okay, on
17 page 713 of the FSA, going to need those two pages
18 back, too.

19 (Pause.)

20 MR. AJLOUNY: Okay, page 713 of the FSA
21 in table 4, --

22 HEARING OFFICER FAY: While he's
23 looking, does the staff need to keep this device
24 on?

25 MR. WALKER: It depends upon the cross-

1 examination --

2 HEARING OFFICER FAY: You may, okay,
3 fine. If you may need it --

4 MR. WALKER: Is it a problem? Is it
5 glaring in your face?

6 HEARING OFFICER FAY: You said something
7 about it not functioning.

8 MR. WALKER: Oh, it's functioning now.

9 HEARING OFFICER FAY: All right.

10 MR. AJLOUNY: Okay, here it is. Okay,
11 starting on page 713 of the FSA table 4 there's a
12 number of topics listed. And I wanted to -- well,
13 I don't have to go -- well, I'll say them real
14 quick. Air quality, biological resources,
15 cultural resources, geological and whatever, land
16 use, noise, public health, socioeconomics -- boy,
17 I'm getting tested here in front of my kids --
18 soil and water resources, traffic and
19 transportation, visual resources and waste
20 management.

21 And my question is did you analyze all
22 these topics, Gary?

23 MR. WALKER: I did not personally. I
24 had help from many technical staff members.

25 MR. AJLOUNY: So, could it be like

1 that's why you have such a bunch of people here?

2 MR. WALKER: Yes, the ones that were
3 considered particularly important for this hearing
4 are, that's why these people are here to assist.

5 MR. AJLOUNY: Okay. So, do the experts
6 normally get involved with the alternatives and do
7 such an extensive on each topic?

8 MR. WALKER: No. Usually the project
9 manager gets sort of a screening -- well, how
10 should I say this politely -- I don't want to say
11 exactly superficial, but gets a sort of a not in
12 depth reading of the likelihood of the impacts
13 from a project from the staff members. And they
14 often use the staff's issues report to identify
15 those potential impacts.

16 But they do not ask the staff to conduct
17 a more detailed analysis, written analysis to
18 provide to the preparer of the alternative
19 section.

20 MR. AJLOUNY: Okay, so why is it so
21 different for Metcalf? I think we established
22 that.

23 MR. WALKER: I think I already answered
24 that.

25 MR. AJLOUNY: Okay, so that's basically

1 because this is a more complex issues that have
2 come up through the general analysis?

3 MR. WALKER: And the project has been
4 identified as having significant unmitigable
5 impacts. And even before that stage, when there
6 was the potential for significant unmitigable
7 impacts, at the PSA stage, I then asked the
8 technical staff to do this work for the FSA before
9 some of the mitigation proposals, like in biology,
10 were developed.

11 And so that was why I asked for their
12 help.

13 MR. AJLOUNY: And so I just want to make
14 it very clear, your technical staff did a more
15 extensive analysis of each of those topics I
16 listed, is that correct?

17 MR. WALKER: More than is typical, yes,
18 substantially more.

19 MR. AJLOUNY: On page 759, if we can
20 turn to that on the FSA. Are you there?

21 MR. WALKER: Yes.

22 MR. AJLOUNY: On the very top, the very
23 first full sentence starting with: Use of
24 alternative site alternate 3 and alternate 4 is
25 expected to avoid a significant environmental

1 impacts of the proposed project; it is not
2 expected to cause any significant impacts.

3 Do you still feel that's true today?

4 MR. WALKER: Yes.

5 MR. AJLOUNY: All right. On page 693 of
6 your testimony.

7 MS. WILLIS: I don't think there is a
8 693.

9 MR. WALKER: Yes, page 1, first page.

10 MR. AJLOUNY: Oh, yeah, first page of
11 the --

12 HEARING OFFICER FAY: This is the
13 alternatives section of the FSA?

14 MR. AJLOUNY: Yes, the first page of it.
15 Are you there?

16 MR. WALKER: Yes.

17 MR. AJLOUNY: Okay. I wanted to draw
18 your attention to the footnote three. And it
19 says: It is also unlikely that the proposed
20 project will be able to begin operation in the
21 summer of 2002 due to changes made in the project
22 description by the applicant during the permitting
23 process. The proposed project, however, could
24 become operational approximately 18 to 30 months
25 prior to any of the alternatives.

1 And my question is how did you come up
2 with this?

3 MR. WALKER: The estimate of 18 to 30
4 months was based upon the advice of management.

5 MR. AJLOUNY: So that's not your -- I
6 mean does --

7 MR. WALKER: Well, I had --

8 MR. AJLOUNY: -- management normally
9 tell you things to put down?

10 MR. WALKER: Well, -- yeah, I know how
11 it was developed. I know what elements were
12 considered in that estimate. But, like the 18
13 months was -- the two elements that were basically
14 considered in both of those numbers are the time
15 to prepare the application and the time for the
16 application -- for the AFC process.

17 And the 18 was based upon six months AFC
18 preparation and 12 months for an AFC process. The
19 30 was based on 18 months -- excuse me, 12 months
20 for preparing the AFC and 18 months for the
21 process.

22 MR. AJLOUNY: Okay, 12 months AFC and
23 the last one was how many months?

24 MR. WALKER: Twelve months to prepare
25 and 18 for the process. It was an extended

1 process.

2 MR. AJLOUNY: Okay. All right, then let
3 me turn to assuming footnote 3 is correct, which I
4 really want to get into in a little bit, let's
5 turn to page 7 of the executive summary.

6 HEARING OFFICER FAY: That's the
7 executive summary of the FSA?

8 MR. AJLOUNY: Yes.

9 In the middle of the page, let's say
10 right under alternatives, there's a paragraph
11 there. And I'd say like the second from the last
12 one, it starts with: Considering the time it
13 would take -- are you with me there?

14 MR. WALKER: Yes.

15 MR. AJLOUNY: Okay. Considering the
16 time it would take to develop a new AFC, the
17 Energy Commission review process and construction
18 time, a plant, if approved, would not begin
19 producing electricity for the grid until 2005.

20 So assuming footnote three is correct,
21 how did you come up with the statement on page 7
22 executive summary?

23 MR. WALKER: I didn't come up with that.
24 I didn't write the executive summary. I had input
25 to it, but I didn't write it.

1 MR. AJLOUNY: Well, who did write it?

2 MR. WALKER: It was a group effort,
3 primarily by management, with advice input from
4 legal staff.

5 MR. AJLOUNY: Here we go with management
6 again, huh? Well, okay, then how do I ask -- let
7 me think a second.

8 MR. WALKER: Excuse me just a minute
9 while I confer with counsel.

10 (Pause.)

11 MR. WALKER: Okay, and excuse me, would
12 you please repeat the question?

13 MR. AJLOUNY: I think you already
14 answered the last one. I was just --

15 MR. WALKER: Okay, right.

16 MR. AJLOUNY: -- I was trying to
17 think --

18 MR. WALKER: Okay.

19 MR. AJLOUNY: -- I'm trying to think of
20 where I'm going now.

21 MR. WALKER: Okay, yeah, --

22 MR. AJLOUNY: I got a Y in the road, and
23 I can't know what's, you know, good thing I did
24 two hours, huh?

25 Yeah, I guess that's what I want to go

1 through is I want to have a discussion how many
2 months it would take. Assuming 18 months, I think
3 you said, right, to prepare the AFC, and the year
4 for licensing process, right? It was a year for
5 licensing --

6 MR. WALKER: Yes, --

7 MR. AJLOUNY: -- and 18 months --

8 MR. WALKER: -- that was the minimum.

9 That's what came up with the 18 months, yes.

10 MR. AJLOUNY: So, that comes out to
11 what, two and half years for the licensing
12 process?

13 MR. WALKER: Not for the licensing
14 process. If it's 30 months that means preparing
15 and having the application --

16 HEARING OFFICER FAY: Issa?

17 MR. AJLOUNY: Yeah.

18 HEARING OFFICER FAY: Excuse me, and
19 forgive me for interrupting, but I know where
20 you're going. I just want to shortcut this.

21 If you take, Mr. Walker, if you take
22 either 18 or 30 months, based on footnote three,
23 and you add 24 months to that, assuming that
24 that's the construction period, subject to check I
25 come out that you get between 42 and 54 months.

1 And isn't 2005 roughly 48 months from
2 now?

3 MR. WALKER: Yeah, at this time of --

4 HEARING OFFICER FAY: Okay, so that's
5 where the number comes from.

6 MR. WALKER: As I recall from the
7 applicant, the construction period was 22 months.

8 MR. AJLOUNY: Well, see, --

9 MR. WALKER: 18 to 22 months is what I
10 think --

11 MR. AJLOUNY: -- that's the point I want
12 to go at, is it was 18 to 22 months, and I think
13 they said it recently in testimony, --

14 HEARING OFFICER FAY: Okay, but he's not
15 knowledgeable about the construction time on a
16 power plant. He relied on others to get that
17 information. I mean, I think we just --

18 MR. AJLOUNY: Okay.

19 HEARING OFFICER FAY: I intervened just
20 to explain what numbers were added up.

21 MR. AJLOUNY: Yeah, no, I appreciate
22 that.

23 MR. WILLIAMS: -- to put in the brief.

24 MR. AJLOUNY: Yeah, --

25 HEARING OFFICER FAY: Absolutely.

1 MR. AJLOUNY: -- I understand, but wait
2 a minute, wait a minute, I think I'm on -- I think
3 where I'm going with this was with -- I guess I
4 might have to take, when we take a break I can
5 recapture my mind. I apologize.

6 So I'm going to leave that alone now,
7 and come back after dinner.

8 MR. WILLIAMS: What time is dinner
9 planned tonight?

10 HEARING OFFICER FAY: 6:15.

11 MR. WILLIAMS: Thank you.

12 MR. AJLOUNY: Okay. Let me go --
13 knowing all the work that the staff has done on
14 this, --

15 MR. WALKER: Excuse me?

16 MR. AJLOUNY: Knowing all the work that
17 staff has done on this --

18 MR. WALKER: Yes, yes.

19 MR. AJLOUNY: -- application, and
20 knowing all the work that staff has done on
21 alternatives, the more extensive work, and knowing
22 all the work that Calpine/Bechtel has done for
23 Metcalf on the AFC, you know, preparing and
24 everything, would you expect the preparation of
25 the AFC for one of the alternative sites to take

1 significantly less than a normal AFC?

2 MR. WALKER: Well, it --

3 MS. WILLIS: I'm going to --

4 MR. WALKER: -- would take less.

5 MS. WILLIS: I was going to object. I'm
6 not sure this is --

7 MR. AJLOUNY: Why?

8 MS. WILLIS: -- this is outside the
9 scope of his testimony.

10 MR. AJLOUNY: Well, I see in his
11 testimony he gives times, and so I just want to
12 bring reality to it, that's all.

13 MS. WILLIS: He gave a range of times.

14 HEARING OFFICER FAY: Yeah, I --

15 MS. WILLIS: And that's been testified
16 to --

17 HEARING OFFICER FAY: I think at best
18 it's his opinion. And --

19 MR. AJLOUNY: Okay.

20 HEARING OFFICER FAY: -- these
21 alternatives, keep in mind, are really sort of an
22 intellectual exercise, because it doesn't mean
23 that the Commission could just say, well, we don't
24 like the proposed, we're going to pick the
25 alternative. It couldn't happen that way.

1 MR. AJLOUNY: Oh, I understand, it
2 happens that if an alternate is going to meet the
3 three criterias that is based on alternatives,
4 then it would be hard to overrule under CEQA law.
5 I've been doing my homework. And I'm trying to
6 prove my case. Honestly, Gary, I --

7 HEARING OFFICER FAY: Okay.

8 MR. AJLOUNY: -- I don't want to waste
9 anyone's time.

10 HEARING OFFICER FAY: Sure.

11 MR. AJLOUNY: I think I'm going to have
12 to come back. Okay, Mr. Knight, I got one for
13 you, buddy. I got to change the tone of this
14 thing, my ears are getting hot, that means I'm
15 getting excited.

16 (Laughter.)

17 MR. AJLOUNY: Are there any obstacles
18 that you can think of for, well, first of all, are
19 you familiar with the six-month process, the AFC
20 process at all? Siting process, I'm sorry.

21 MR. KNIGHT: Yes.

22 MR. AJLOUNY: You are? Do you see, now
23 okay, maybe I'll direct it this way. You
24 mentioned one obstacle that didn't really seem
25 like an obstacle. It was the height requirement,

1 but you seemed to allude or I can't remember the
2 exact words, that yeah, the only issues with the
3 city would have been the height because it's 40
4 feet, and this stack would be much higher, but
5 there's a condition, like normally for --

6 SPEAKER: Discretion.

7 MR. AJLOUNY: -- yeah, there's a
8 discretion or something that, you know, that's not
9 really a major issue for a factory or you know,
10 for something like that. You mentioned that
11 earlier in your testimony, do you remember that?
12 And that's Issa's words, you can help me out.

13 MR. KNIGHT: Yeah, there's an exception
14 process in the city's general plan and zoning
15 ordinance to allow greater heights than what is
16 specified in the zoning ordinance.

17 MR. AJLOUNY: Okay. So, do you think
18 that in the area, I think there was like two areas
19 and the Commissioners probably know this better
20 than me, but it's basically can't break any local
21 rules significantly or so, and then something
22 about, what was the other piece of that, six month
23 law, do you remember?

24 MR. KNIGHT: Well, there were specific
25 criteria that applications have to meet for the

1 six month AFC process, but I don't know all of
2 them.

3 MR. AJLOUNY: Oh, okay, I thought you
4 were familiar, okay.

5 MR. KNIGHT: Well, --

6 MR. AJLOUNY: Gary, are you familiar
7 with it?

8 MR. WALKER: I know that they need to
9 comply with LORS.

10 MR. AJLOUNY: Okay, there's another
11 major thing there, too, I think. My mind's gone
12 blank. Do you remember it?

13 MR. WALKER: I don't offhand.

14 MR. AJLOUNY: Okay.

15 MR. WALKER: The other are air quality
16 requirements.

17 MR. AJLOUNY: Oh, I know, credits, thank
18 you. Credits. So, keeping in mind that pretty
19 much LORS are probably going to be met, other than
20 the height requirement, and keeping in mind that
21 Calpine has credits for this location here, air
22 credits, and we're in the same region because we
23 heard testimony that air credits can be taken
24 anywhere in the general area, with the new law in
25 mind, do you perceive an alternative being built

1 sooner because of the six month process? Instead
2 of -- wait a minute, okay, yeah, in a six month
3 process versus the one year process? And anyone
4 can answer that, or all of you.

5 MR. KNIGHT: I'm not sure what your
6 question is, actually.

7 MR. AJLOUNY: Okay.

8 MR. KNIGHT: If you repeat it I'll try
9 to answer it.

10 MR. AJLOUNY: With the new law in mind,
11 do you perceive an alternative being built sooner,
12 meaning a six month process instead of a one year
13 process?

14 MR. KNIGHT: Well, I can speak to land
15 use issues, and if -- I think the only sites that
16 had a clear bill for a land use were sites 5 and
17 6.

18 PRESIDING MEMBER LAURIE: Let me try,
19 Issa, --

20 MR. AJLOUNY: Okay.

21 PRESIDING MEMBER LAURIE: -- I know what
22 you're trying to get to. Gentlemen, under the six
23 month process an applicant submits an AFC for
24 initial review, is that correct?

25 MR. KNIGHT: Yes.

1 PRESIDING MEMBER LAURIE: And upon that
2 initial review, staff determines whether or not it
3 meets the criteria, is that correct?

4 MR. WALKER: Yes.

5 PRESIDING MEMBER LAURIE: I think where
6 the question is trying to go is was your analysis
7 specific enough to provide an analogy to the six
8 month process so that are you in a position today
9 to say any of the alternatives would meet the
10 criteria for the six month process. Is that your
11 question?

12 MR. AJLOUNY: Yeah, that's great. I'm
13 going to hire you next time to --

14 HEARING OFFICER FAY: Do you have enough
15 information to reach an opinion as to whether or
16 not any of these alternatives qualify for the six
17 month process as you might know it?

18 If you don't know, your answer is you
19 don't know.

20 MR. KNIGHT: Alternative sites 1 and 2
21 don't avoid the significant environmental impact
22 to agricultural resources, so those would not
23 qualify for the six month process.

24 Sites 3 and 4 violated development
25 standard, so they violate a LOR, that's the --

1 MR. AJLOUNY: Is that the height
2 standard?

3 MR. KNIGHT: -- height restriction.
4 That's the height restriction, so I'd say they
5 don't conform to all LORS.

6 Five and 6 avoided the impact to ag
7 land, it's designated as grazing land. And I
8 didn't identify any plan conformity issues. So, I
9 think potentially 5 and 6.

10 MR. AJLOUNY: Okay.

11 MR. KNIGHT: But I think there's other
12 issues with those sites that, like biology and
13 water, that would preclude them from the six month
14 process.

15 MR. AJLOUNY: Okay. And so I guess what
16 I want to -- in my homework, I want to focus in on
17 alternates 3 and 4. And I think I just heard you
18 say the only reason it wouldn't require -- it
19 wouldn't meet the standards that Commissioner
20 Laurie mentioned, was the height standard,
21 correct?

22 MR. KNIGHT: That's the one development
23 standard I did identify it would not meet, clearly
24 would not meet.

25 MR. AJLOUNY: Okay, --

1 MR. KNIGHT: The other development
2 standards it would appear that the project could
3 meet them. They're minimal.

4 MR. AJLOUNY: Okay. And --

5 MR. KNIGHT: In terms of land use.

6 MR. AJLOUNY: Okay, yeah --

7 MR. KNIGHT: Land use only.

8 MR. AJLOUNY: In land use. And the
9 thing I want to focus in on is your testimony
10 earlier that, and I don't know your words, but it
11 was like, yeah, it's a height restriction but
12 there's, it's like accepted all the time kind of
13 thing for bigger buildings. I think you even said
14 homes were higher than 40 feet, they were 60 feet
15 or something.

16 MR. KNIGHT: What I recall I said was
17 that there is a height exception process. The
18 height restriction is 40 feet, warehouses are
19 allowed the 60 feet --

20 MR. AJLOUNY: Oh, warehouses.

21 MR. KNIGHT: -- in the general
22 industrial district in Fremont. There is an
23 exception process, but the city council would have
24 to make a finding that the project met one or more
25 of those criteria.

1 MR. AJLOUNY: Okay.

2 MR. KNIGHT: And I noted that there is a
3 criterion there that if substantial height is
4 necessary for the functioning of that particular
5 use, which is similar to the City of San Jose's
6 requirement --

7 MR. AJLOUNY: That's what I wanted,
8 thank you.

9 MR. KNIGHT: -- it appears that they
10 would meet that requirement. But that really is
11 the discretion of the city.

12 MR. AJLOUNY: Okay. I understand that,
13 but basically it appears, with your expert
14 testimony, that's the only thing for land use that
15 would stop the six month process. And is there
16 anyone here for air? No? Okay.

17 Well, I'll just -- never mind, I think I
18 already said it, so hopefully the Commissioners
19 can figure this one out on that piece.

20 So, are you aware that the City of
21 Fremont might be participating in the City of San
22 Jose's energy summit this Friday?

23 MR. KNIGHT: I don't know if they are or
24 not.

25 MR. AJLOUNY: Gary, do you know that?

1 MR. WALKER: I do not know.

2 MR. AJLOUNY: Does anyone know that?

3 Okay, that's fine. I won't go there.

4 Okay. Well, then I just want to touch
5 on one more thing in that area. Assuming the six
6 month process will work, and then Calpine has
7 testified 18 months of building at the low end, 22
8 months at the high end, that would make it -- so
9 wouldn't that make it in today's environment, with
10 all the knowledge they have of preparing
11 everything that I said before, they take all that
12 information, go to an alternate site, put it in an
13 AFC that maybe it might be as soon as the end of
14 2003 to have a power plant built at alternatives 3
15 and 4, is really where I'm focusing?

16 MR. TYLER: I think one thing that I
17 would like to say as far as my testimony goes, is
18 that I think there's an assertion being made here
19 that another project developer or Calpine would go
20 ahead and do this. I don't think we can make that
21 assumption.

22 So, in the absence of that, I would say
23 that you, in the meantime, expose the public to
24 the risk associated with the system problems.

25 So, I --

1 MR. AJLOUNY: Excuse me, but I mean
2 we're not even talking about that, why are you --
3 why don't you go sit on the other side of the
4 table if you're going --

5 MR. TYLER: No, I think --

6 HEARING OFFICER FAY: Issa. This
7 isn't --

8 MR. AJLOUNY: But I wasn't even going
9 there.

10 HEARING OFFICER FAY: -- this is part of
11 his analysis --

12 MR. AJLOUNY: I object, it has nothing
13 to do with my question.

14 MR. TYLER: Yes, it does.

15 HEARING OFFICER FAY: Let him finish.

16 MR. TYLER: Because you are asserting
17 that we can substitute this project in another
18 location and then we can finish it in a timely
19 manner. And that we will avoid the risk of not
20 having power before 2003.

21 What I'm pointing out is that this
22 applicant, nor any other applicant, has an
23 obligation, upon this project being rejected, to
24 do that.

25 And therefore, I think it's pretty

1 speculative to assume that that's going to happen,
2 or that these risks can be avoided.

3 MR. AJLOUNY: Okay, then let's go for
4 it. What's --

5 SPEAKER: Mr. Tyler.

6 MR. AJLOUNY: Mr. Tyler, let's go for
7 it, since you opened the ball I'm going to throw
8 it around a little bit, okay?

9 Are you aware that there's a lot of
10 opposition in the City of San Jose on this power
11 plant?

12 MR. TYLER: I understand that there's
13 both opposition and people that favor the --

14 MR. AJLOUNY: Okay, --

15 MR. TYLER: -- project being built.

16 MR. AJLOUNY: -- but I asked you,
17 specifically, are you aware there's a lot of
18 opposition?

19 MR. TYLER: Yes, I am.

20 MR. AJLOUNY: Do you realize that
21 opposition is eleven, the ten City Council and the
22 Mayor, not just one or two, but all of the
23 representatives of the City of San Jose?

24 MR. TYLER: I'm not sure who is
25 currently where on the project.

1 MR. AJLOUNY: Okay, are you aware of the
2 November vote of 11 to zero?

3 MR. TYLER: No, I'm not.

4 MR. AJLOUNY: Okay. Well, Mr. Knight,
5 are you aware of that?

6 MR. KNIGHT: Yes.

7 MR. AJLOUNY: Can you tell your
8 colleague that that's a true statement?

9 (Laughter.)

10 MR. KNIGHT: They voted 11-zero.

11 MR. TYLER: Okay.

12 MR. AJLOUNY: Thank you. All right.

13 I really wasn't going to go here, but
14 the point I want to make is keeping that in mind,
15 do you perceive maybe that this power plant won't
16 be built for maybe 2004 or '5, with all the legal
17 issues and the water control, discharge --

18 PRESIDING MEMBER LAURIE: Mr. Tyler,
19 don't answer that question. It calls for complete
20 speculation. That --

21 MR. AJLOUNY: Well, he just speculated.

22 MS. CORD: He's speculating that no
23 one's going to build a power plant --

24 (Parties speaking simultaneously.)

25 //

1 PRESIDING MEMBER LAURIE: Well, I'll
2 strike his answer.

3 MS. CORD: Could you strike his answer
4 about --

5 MS. DENT: Thank you, --
6 (Parties speaking simultaneously.)

7 PRESIDING MEMBER LAURIE: I --

8 MS. CORD: -- no one's going to build a
9 power plant in Fremont?

10 PRESIDING MEMBER LAURIE: I'm ruling
11 that the question calls for speculation and I will
12 not permit it.

13 MR. AJLOUNY: Okay, fine, okay --

14 MS. CORD: Could you, but we --

15 MR. AJLOUNY: No, that's all right,
16 Elizabeth, it's all right. I think --

17 MS. DENT: Can I clarify that you are
18 striking his prior answer?

19 PRESIDING MEMBER LAURIE: No.

20 MS. DENT: Even though --

21 PRESIDING MEMBER LAURIE: That --

22 MS. DENT: -- it was not responsive.
23 I'm going to move to strike it because it was not
24 responsive to --

25 PRESIDING MEMBER LAURIE: Overruled.

1 Continue your questions.

2 MR. AJLOUNY: Okay. You made a
3 statement that it's not going to be struck, and
4 so I'm going to really dig it in that there's no
5 reason to believe someone else is going to build a
6 power plant in alternatives 3 and 4, is that true?

7 MR. TYLER: That was what I said, I
8 don't --

9 MR. AJLOUNY: Okay, are you --

10 MR. TYLER: -- I think --

11 MR. AJLOUNY: -- aware --

12 MR. TYLER: -- it's complete
13 speculation.

14 MR. AJLOUNY: Are you aware last Friday
15 in the "San Jose Business Journal", a well
16 respected business paper, stated, quote, "Mr.
17 Abreu's acknowledges that Calpine is looking to
18 build another power plant similar in size to the
19 proposed 600 megawatt Metcalf Energy Center
20 facility in Fremont near two alternative sites
21 listed by the Energy Commission." Are you aware
22 of that?

23 MR. TYLER: No, I wasn't aware of that.

24 MR. AJLOUNY: Did you want to read it
25 and maybe you'll feel a little more comfortable,

1 because --

2 MS. WILLIS: I'm going to object --

3 PRESIDING MEMBER LAURIE: What's the
4 relevancy?

5 MR. AJLOUNY: The relevance is he made a
6 statement that there's -- I guess he made a
7 feeling that there's no reason to believe that
8 someone would build at one of those alternate
9 sites, but yet --

10 PRESIDING MEMBER LAURIE: Well, that's
11 fine. It was his opinion. We are free to ignore
12 it.

13 MR. AJLOUNY: I guess he got my goat.
14 Sorry about that, I'll go on.

15 MR. HARRIS: Just for the record, I
16 think Mr. Abreu was misquoted.

17 MR. AJLOUNY: How conveniently. Was
18 that misquoted by Calpine or Bechtel?

19 MR. HARRIS: Would you like Mr. Abreu to
20 respond?

21 MR. AJLOUNY: No, I wouldn't. I'm going
22 to have the reporter respond in my brief.

23 Okay, I understand this is not your
24 testimony, Gary, but in the PSA on page 493,
25 that's PSA --

1 MR. WALKER: Just a second. I have it
2 somewhere. Okay, I found it.

3 MR. AJLOUNY: The last three paragraphs.

4 MR. WALKER: Okay.

5 MR. AJLOUNY: The very first one that
6 I'm talking about says: The applicant also states
7 that MEC consumptions of less fuel and discharge
8 of fewer air emissions for each energy unit
9 generated when compared to other existing older
10 fossil fuel generation facilities is a beneficial
11 environment impact.

12 Do you remember writing that, do you
13 remember that piece?

14 MR. WALKER: Yes.

15 MR. AJLOUNY: Okay, and the next:
16 Energy Commission Staff does not agree with
17 applicant's position for several reasons" and you
18 list a bunch of them. Okay?

19 MR. WALKER: Yes.

20 MR. AJLOUNY: Why is that not in the
21 FSA? Is there something that happened that I
22 don't know about?

23 MR. WALKER: Again, it was due to
24 editorial comments from management and staff
25 counsel.

1 MR. AJLOUNY: So we're hearing that
2 management is, again, basically advising you not
3 to put certain things in the FSA for the final
4 staff assessment, is that what I just heard?

5 MR. WALKER: Yes.

6 MR. AJLOUNY: Okay, that's incredible.
7 Well, do you still believe in the paragraphs that
8 I just referenced in that page 493 to be true, or
9 do you still feel that way personally with your
10 expert testimony or skills?

11 MR. WALKER: Actually I'm not the
12 technical expert that -- I wrote the specific
13 words, but the ideas here were from other
14 technical staff.

15 MR. AJLOUNY: Okay, then I'll leave that
16 alone. I guess the point I want to make is my
17 homework has proven to be, you know, worth it.
18 I'm seeing a lot of discrepancies and you're
19 helping me answer.

20 Okay, let's go to, let me see, how do I
21 word this, okay, page 7 of the executive summary.

22 MR. HARRIS: PSA or FSA?

23 MR. AJLOUNY: FSA, sorry.

24 HEARING OFFICER FAY: FSA.

25 MR. WALKER: Yes, I have it, page 7.

1 MR. AJLOUNY: You can imagine how much
2 reading I've been doing, huh? The last paragraph
3 on page 7, Gary, oh, let's say probably the last
4 sentence, the last full sentence, it starts with:
5 Although the use of alternative sites may appear
6 to lessen or avoid the impacts of the project, a
7 more detailed site analysis may show otherwise."

8 Okay. Keep that in mind. Then I want
9 to bring you to page 711 --

10 MR. WALKER: Of the FSA?

11 MR. AJLOUNY: Yes, of the FSA. I think
12 I'm only talking FSA from now on. I think I did
13 my PSA, I won't guarantee it.

14 MR. WALKER: All right.

15 MR. AJLOUNY: Okay, on page 711 it
16 starts with alternatives, table 4 shows potential
17 significant impacts, right?

18 MR. WALKER: Yes.

19 MR. AJLOUNY: The second sentence: From
20 extreme perspective the staff determined which of
21 the proposed sites would avoid or substantially
22 lessen the potential significant adverse visual or
23 land use impacts of Metcalf project. Okay?

24 MR. WALKER: Okay.

25 MR. AJLOUNY: The next sentence, I just

1 want you to keep some things in mind, then I have
2 a question for you: Use of alternative sites 3
3 and 4, 5 or 6 would avoid the proposed project's
4 significant unmitigated impact due to conversion
5 of prime farmland to nonagricultural use.

6 And the last sentence I want to bring
7 up: Use of any of alternative sites 1 through 6
8 would avoid the proposed project's significant
9 unmitigatable impacts due to whatever, okay.

10 The point I want to make is, is it your
11 testimony on page 711 you're saying would avoid,
12 is that your words?

13 MR. WALKER: Yes.

14 MR. AJLOUNY: Okay. So management
15 didn't tell you you had to put that in there?

16 MR. WALKER: No.

17 MR. AJLOUNY: And you still feel that's
18 true today?

19 MR. WALKER: Yes.

20 MR. AJLOUNY: Okay. Well, then going
21 back to page 7 where it says may appear to lessen,
22 to me that's not as strong or I mean why did you
23 change that on page 7 in the executive summary.

24 MR. WALKER: I didn't --

25 HEARING OFFICER FAY: Mr. Walker didn't

1 write --

2 MR. WALKER: I did not write that.

3 HEARING OFFICER FAY: -- the executive
4 summary. It's not his testimony.

5 MR. AJLOUNY: I thought it was -- I'm
6 sorry. I thought it was a combination of --

7 HEARING OFFICER FAY: It's part of the
8 executive summary, which was probably prepared by
9 the project manager, but it was not prepared by
10 Mr. Walker specifically.

11 MR. AJLOUNY: Okay, I thought I heard in
12 testimony before, Mr. Fay, is that the executive
13 summary is written by all the technical expertise,
14 and I'm only picking on that because I got real
15 specific. And I'm only picking because it's his
16 alternative sites.

17 HEARING OFFICER FAY: You've pointed out
18 the difference and that's the point. But, they
19 can't answer any more than that, I don't think.
20 Did any of them write this, Ms. Willis?

21 MS. WILLIS: No.

22 HEARING OFFICER FAY: Okay, so there's
23 no witness here that can talk about --

24 MR. AJLOUNY: Okay, so, Gary, you didn't
25 write that sentence in there?

1 MR. WALKER: No.

2 MR. AJLOUNY: Okay, then let me
3 hypothetically, if you were going to write that
4 sentence, would you use the words may appear? Or
5 would you use the word avoid?

6 MR. WALKER: I would use would avoid,
7 not, I wouldn't use may appear to.

8 MR. AJLOUNY: Okay, good. All right.
9 Man, I'm going to have to take a break here pretty
10 soon.

11 Okay, well, this is going to get -- let
12 me see. You just testified that some of the
13 changes you made were not really your choice, it's
14 like management advised. Is there any --

15 MS. WILLIS: I'm going to object. This
16 is Mr. Walker's testimony. Whether there was
17 editing or whether there was legal editing, that
18 all may have played a part of it, but this is his
19 testimony, and --

20 MR. AJLOUNY: I understand.

21 MS. WILLIS: -- and there is a
22 declaration and he is testifying under oath --

23 MR. AJLOUNY: I understand.

24 MS. CORD: Isn't what he's saying --

25 MR. AJLOUNY: Wait, wait, Elizabeth,

1 Elizabeth --

2 MS. CORD: -- his testimony, too?

3 MR. AJLOUNY: I understand, I totally
4 understand.

5 My question was these changes or his
6 feeling that management wanted you to do these
7 things or whatever, is anything in writing? Were
8 you advised in writing any of these things?

9 MR. WALKER: Yes.

10 MR. AJLOUNY: Okay, good. Are any of
11 these documents on record?

12 MR. WALKER: Not in the case record, no.

13 MR. AJLOUNY: Can they be put in the
14 record?

15 MS. WILLIS: No, they cannot.

16 MR. WALKER: I guess that's a legal
17 question.

18 MS. WILLIS: These are communications
19 between the staff and the attorney. They cannot,
20 they are confidential.

21 MR. AJLOUNY: So it that, I mean I don't
22 know, Commissioners or --

23 HEARING OFFICER FAY: Certainly, the
24 attorney/client privilege could protect some of
25 those documents. They may be work papers. We're

1 not going to rule on their admissibility at this
2 point. They're not before us.

3 MR. WALKER: They're not all with the
4 attorneys.

5 MR. AJLOUNY: What's that?

6 MR. WALKER: Not all the papers are with
7 the attorneys. Some of them, like I said,
8 management and --

9 MR. AJLOUNY: So, like it could be an
10 email or something? Or a memo going around the
11 office?

12 MR. WALKER: Yes.

13 MR. AJLOUNY: So, like a memo or email,
14 as a public, do I have a right to have that?

15 HEARING OFFICER FAY: If it's not in the
16 docket, you can't observe it.

17 MR. AJLOUNY: Well, I guess I'm asking
18 for that --

19 HEARING OFFICER FAY: If you choose to
20 discover it through some other legal process, then
21 there are such processes.

22 MR. AJLOUNY: Well, wait a minute, okay.

23 HEARING OFFICER FAY: If you ask for it
24 and staff doesn't give it to you, then you'll have
25 to take another course.

1 MR. AJLOUNY: So would that be like the
2 word I heard from Commissioner Laurie, part of my
3 petition or something, if I wanted to put a
4 petition?

5 HEARING OFFICER FAY: Not to the
6 Committee. No, not to the Committee.

7 MR. AJLOUNY: I mean I'm not trying --

8 HEARING OFFICER FAY: But, it's --

9 MR. AJLOUNY: -- to get -- honestly, I
10 just want to understand --

11 HEARING OFFICER FAY: Right, it's just
12 not part of this case record, to my knowledge.

13 MR. AJLOUNY: And I guess because -- and
14 here's, I'm finally getting to where I'm going
15 with this. Is, the FSA is so significant and so
16 important to this whole process, and to me it was
17 the match to the political pressure that's been
18 put on this whole case.

19 And because the management, I'm hearing,
20 and other things that --

21 HEARING OFFICER FAY: Well, we're going
22 to have to limit you to questions, Issa, of the
23 witnesses. That's argument.

24 MR. AJLOUNY: Yeah, I know, but I'm
25 talking with you now. I'm sorry, I'm getting

1 excited. I just can't believe what I'm hearing, I
2 guess.

3 HEARING OFFICER FAY: Okay, if --

4 PRESIDING MEMBER LAURIE: Okay, what
5 we're going to do is we're going to break. And
6 then we'll come back.

7 There are rules for governing obtaining
8 of records, and you have to determine what those
9 rules are, and follow those rules. Okay?

10 MR. AJLOUNY: All right, thank you.

11 (Whereupon, at 6:15 p.m., the hearing
12 was adjourned, to reconvene at 7:00
13 p.m., this same evening.)

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1 EVENING SESSION

2 7:12 p.m.

3 HEARING OFFICER FAY: On the record.

4 MR. AJLOUNY: Thank you. I had concerns
5 before we broke about obtaining some of the what
6 you call nonlawyer papers, nonlawyer privileges
7 type papers. And I want to know if that's an
8 appropriate time to discuss this now.

9 HEARING OFFICER FAY: No. You're cross-
10 examining the staff witnesses --

11 MR. AJLOUNY: Okay, because I thought --
12 okay. When would --

13 HEARING OFFICER FAY: Check with the
14 Public Adviser if you want to pursue those
15 documents.

16 MR. AJLOUNY: Okay. So you don't have
17 an opinion on that, if there's a legal way to do
18 that or not?

19 HEARING OFFICER FAY: No, I don't have
20 an opinion.

21 MR. AJLOUNY: I'm done cross-examining
22 you, then.

23 HEARING OFFICER FAY: No, you're not.

24 MR. AJLOUNY: I'm just having fun, I'm
25 sorry, I'm trying to mellow out a little bit. I

1 got too excited.

2 Okay. In my homework and checking out
3 other applications and assessments, is it normal
4 that staff recommends to approve or disapprove a
5 project in the FSA? And I want to direct this to
6 Gary.

7 MR. WALKER: It's not typical, no, it's
8 not.

9 MR. AJLOUNY: Okay, how about Mr.
10 Knight, do you have any feelings on that?

11 MR. KNIGHT: I'd agree with what Gary
12 said, it's not a typical situation.

13 MR. AJLOUNY: Okay, good. I didn't know
14 if I heard a chuckle over there or something, I
15 don't know.

16 Okay. Is it your recommendation, Gary,
17 to approve Metcalf?

18 PRESIDING MEMBER LAURIE: Are you making
19 reference to his direct testimony?

20 MR. AJLOUNY: Yes.

21 PRESIDING MEMBER LAURIE: Okay, --

22 MR. AJLOUNY: And here is -- I'm glad
23 you asked that, Commissioner. Because here's
24 where I'm going with this. Where I went -- is I
25 see -- this is where I really need to understand

1 something that doesn't make sense.

2 I look at the FSA as equal to EIR as
3 staff's independent analysis. In Gary's testimony
4 it sounds like, you know, he's being very strong
5 about the alternatives. But then when I look at
6 the executive summary, I notice some stuff in
7 there that first of all is not in any other FSA
8 that I read to compare, and in the summary the one
9 thing that's not there is that it is recommending
10 to override.

11 And so because I feel like I'm in a
12 predicament as an intervenor, that I have
13 testimony and I can cross-examine everybody on
14 each testimony --

15 PRESIDING MEMBER LAURIE: This witness
16 indicated he did not write the executive summary
17 and he's not responsible for the executive
18 summary. He is responsible only for his portion
19 of the alternatives testimony.

20 MR. AJLOUNY: Okay, so who officially
21 can I cross-examine about the executive summary?

22 CHAIRMAN KEESE: I would comment it
23 speaks for itself. You know, I don't know whether
24 we have 100 people working in siting now.

25 MR. AJLOUNY: Okay.

1 CHAIRMAN KEESE: However it works, there
2 are 100 people, and I'm sure that you can find
3 things on which one person disagrees with what the
4 management of that group says. But when they come
5 up with a document that's the document.

6 Now, when he testifies to his opinion,
7 that's his opinion. When he's testifying as to
8 the document, that's the document.

9 MR. AJLOUNY: Okay, --

10 CHAIRMAN KEESE: I'll have a problem if
11 you're going to go down and ask everyone who comes
12 up here do you agree with what was said in that
13 document. I mean that --

14 MR. AJLOUNY: Okay, but --

15 CHAIRMAN KEESE: Do you follow me?

16 MR. AJLOUNY: Yeah, I follow you, but
17 follow me for a second. We have an executive
18 summary that --

19 CHAIRMAN KEESE: Right.

20 MR. AJLOUNY: -- it's used as, again,
21 the foundation for all these things that have been
22 coming around --

23 HEARING OFFICER FAY: No.

24 MR. AJLOUNY: Well, yeah, because
25 everything --

1 HEARING OFFICER FAY: No. The executive
2 summary is not the evidence on which the Committee
3 will rely to base its finding.

4 MR. AJLOUNY: So that executive
5 summary's statement about suggesting to
6 override --

7 HEARING OFFICER FAY: Is not evidence.

8 MR. AJLOUNY: Okay, so can I ask that
9 the executive summary be stricken from the record?

10 HEARING OFFICER FAY: You can ask.

11 MR. AJLOUNY: Well, I want to ask
12 that --

13 CHAIRMAN KEESE: I didn't know it was
14 there until you brought it up.

15 MR. AJLOUNY: What? The executive
16 summary?

17 CHAIRMAN KEESE: I didn't know that
18 language was in the executive summary.

19 HEARING OFFICER FAY: Well, the evidence
20 is the portions of the FSA sponsored on
21 declaration or under oath by each of the
22 witnesses. And they have not introduced, you
23 know, an overall policy witness who is sponsoring
24 the executive summary. So the evidence in the
25 record on which the Committee must base its

1 proposed decision are the individual portions of
2 testimony.

3 MR. AJLOUNY: Okay. By the way, when we
4 finish this discussion, it will save a lot of
5 time, because that's where my questions were
6 leading. So, this is a benefit for all of us as
7 far as time saved.

8 Where I have a great concern is that we
9 have a document called the FSA; part of that
10 document is an executive summary. I have found
11 that in every topic and every part of that FSA I
12 can cross-examine the expert witness on it.

13 I'm finding it very difficult to cross-
14 examine the executive summary. So, for that
15 reason, because it's just like Kisabuli's letters,
16 you know, you have no way to prove it, he's not
17 here testifying, he's not cross-examined, it's
18 just in docketed.

19 So, I guess I would like to make a move
20 or make an objection to the FSA executive summary
21 section be part of the official testimony of
22 staff.

23 HEARING OFFICER FAY: You can argue in
24 your brief if you think the executive summary does
25 not accurately summarize the testimony in the

1 record. But the executive summary is not the
2 evidence.

3 MR. RATLIFF: If I could just explain a
4 little bit. Issa, bear with me just for a minute
5 if you will.

6 MR. AJLOUNY: Okay.

7 MR. RATLIFF: It's very difficult, I
8 think, to describe how an institution, which is a
9 collection of people, basically communicates a
10 point of view.

11 But, if, for instance, we were the City
12 of San Jose or any other local government and we
13 did an EIR, there would be basically conclusions
14 in there about all kinds of things. About the
15 significance of all of these impacts. And you
16 would not have anyone to cross-examine on that.
17 There would not be any names associated with any
18 of those conclusions.

19 You would merely have a document where
20 the conclusions had been drawn, and they may very
21 well reflect the opinions of the planning director
22 or the mayor, himself.

23 Here you have basically something that's
24 quite different. You have about 20 different
25 technical areas, maybe more, and you have people

1 who hold positions where they have some experience
2 and expertise in those areas. And they basically
3 sign their names to the analysis that they do.

4 That analysis does go through review.
5 That analysis is subject to legal review; it's
6 subject to management review. People have to
7 defend the ideas that they put in their analysis,
8 whatever that is. And they have to justify it.

9 And generally speaking, every piece of
10 testimony that goes into an FSA has been changed
11 before it goes in the FSA. Changed in all kinds
12 of ways.

13 And I guess what I'm trying to say is
14 what we did here that was a little bit different,
15 and I think the difference is what you're trying
16 to understand, is that we had a situation here
17 where in the PSA we concluded that there was the
18 probability of significant impacts from this
19 project.

20 And that left the staff in a situation
21 where they had to decide, okay, well, do we just
22 say that, where we think that there are
23 significant environmental impacts, and we think
24 that there are benefits that we haven't really
25 described, or do we, in fact, try to describe the

1 benefits, as well, and try to summarize what the
2 overall staff position was.

3 The executive summary was the attempt to
4 summarize staff's thinking. It was essentially a
5 compilation of the, in terms of the writing of it,
6 of the division head and his assistants, and the
7 project manager --

8 MR. AJLOUNY: Is that Bob Therkelsen?

9 MR. RATLIFF: Yes. And then --

10 MR. AJLOUNY: Okay.

11 MR. RATLIFF: -- and of the lawyers
12 who've been involved in the case. There's no
13 mystery about this, I mean I feel like, you
14 know, --

15 MR. AJLOUNY: Well, it was for me
16 because it took --

17 MR. RATLIFF: Well, okay, --

18 MR. AJLOUNY: -- I can't talk to anyone
19 but Paul Richins, and he won't let me talk to
20 them.

21 MR. RATLIFF: When we did the executive
22 summary we didn't know if it would be testimony or
23 not. As it turns out, it is not testimony, it is
24 really a summary position of the staff, because we
25 haven't presented any kind of an official person

1 to basically represent that position.

2 But it was an effort to try to
3 communicate the overall staff take and position on
4 the --

5 MR. AJLOUNY: I understand that.

6 MR. RATLIFF: -- benefits and
7 environmental problems of the project.

8 MR. AJLOUNY: And that's where I think
9 the real serious crisis is in this whole process.
10 Is that I can understand topics and have experts
11 and they give their testimony, it's all written
12 down.

13 But, to jump over and leap into an
14 executive summary and summarize with the extra
15 portion of we recommend to override, we recommend
16 to approve this project, that's where I have a
17 hard time, because it's like I'm finding, I look
18 at the testimony and too bad I didn't get onto
19 this sooner, because I mean I just try to do my
20 work. But because alternates is dear to my heart,
21 on this override, I tore that apart. I went
22 through word for word, right. And I'm finding,
23 you know, conflict.

24 So I'm trying to tie together, as you
25 know, through my questioning and I'm getting

1 nowhere. So, I've come to the conclusion that I
2 don't think it's unfair, and I just heard your
3 argument, but I don't think it's unfair to ask
4 that the executive summary, which the whole City
5 of San Jose and Assemblypeople are using that
6 executive summary, those statements of they are
7 recommending to approve this project, so we are.

8 Instead of taking the time. I haven't
9 seen one of them sit here in these meetings. They
10 don't know what's going on in the testimony and
11 what's true or not. They just are busy, like we
12 all are, and they're going to read a few pages and
13 say, okay, boom.

14 It's not fair to the process, and I feel
15 if we cannot cross-examine and tear that apart and
16 look at it, it shouldn't be part of the testimony,
17 it shouldn't have been released that way, and I
18 think it was a manipulation politically to get the
19 match going to this whole outrageous thing. And I
20 think the --

21 PRESIDING MEMBER LAURIE: Okay, this is
22 the end of that discussion. You've made the
23 point. We have indicated that we do not consider
24 the executive summary to be evidence, period.

25 If you want to argue some more about it

1 in your brief, you may do so. If you want to
2 point out more differences, you may do so. But,
3 we're telling you we do not look at the executive
4 summary as evidence.

5 If you want to complain about it later,
6 do that. I suggest that we not take up this time
7 for that purpose.

8 MR. AJLOUNY: Okay. One question, then,
9 Commissioner. I've always felt you were a fair
10 man. Do you feel it's fair to put out a statement
11 that executive summary is not considered testimony
12 and you're not going to make your decision based
13 on it?

14 PRESIDING MEMBER LAURIE: No.

15 MR. AJLOUNY: Okay.

16 PRESIDING MEMBER LAURIE: You --

17 MR. AJLOUNY: You know where I'm going
18 with that.

19 PRESIDING MEMBER LAURIE: You have my
20 statement on the record. You can do whatever you
21 want to do with it.

22 Please continue with your questions.

23 MR. AJLOUNY: Okay. All right, I think
24 I bypassed a bunch of questions. Let me see.

25 Okay, then let me, whoever can answer

1 this, or I think, Gary, you're probably the one,
2 since you get into alternates.

3 Are you aware the Seventh and Tully site
4 that was announced big time by the Mayor maybe two
5 weeks ago?

6 MR. WALKER: Yes.

7 MR. AJLOUNY: Okay. Do you know if it's
8 near a gasline at all?

9 MR. WALKER: From our maps, the maps
10 that we had made of the whole study area, that
11 showed the gaslines, T-lines, all that stuff,
12 yeah, it's close to a gasline.

13 MR. AJLOUNY: Okay. How about the power
14 lines?

15 MR. AJLOUNY: I think it's about half a
16 mile from the power lines.

17 MR. AJLOUNY: Okay. Recycled water is
18 going to be piped into Metcalf if it gets
19 approved, well that's even questionable, but would
20 your reasoning be that recycled water could be
21 connected to the site, or maybe it's even closer
22 to, I don't know, is recycled water close to the
23 site, do you know that?

24 MR. HARRIS: I'm going to object. I
25 don't see any Seventh and Tully in the direct

1 testimony, so I don't know where you're going with
2 this information. I can't follow --

3 MR. AJLOUNY: Well, I just want to --

4 HEARING OFFICER FAY: What is the --

5 MR. HARRIS: You're testifying --

6 MR. AJLOUNY: What I want to point out
7 that there's other alternate sites that Gary
8 failed to point out. And it's going to be quick,
9 I mean, just going to go through them, so I can
10 reference it in my brief.

11 HEARING OFFICER FAY: You mean that he
12 could have picked like another dozen alternate
13 sites, is that what --

14 MR. AJLOUNY: Well, I guess what I'm
15 trying to say is the City of San Jose is trying
16 really hard to fix the electrical problem in this
17 area for the state.

18 MR. HARRIS: Can we be off the record
19 for this --

20 MR. AJLOUNY: No.

21 HEARING OFFICER FAY: Wait, Issa, again
22 you're testifying. Mr. Walker --

23 MR. AJLOUNY: I'm just going to ask --

24 HEARING OFFICER FAY: -- made -- this
25 panel made some selections of alternate sites,

1 that's what they chose to analyze.

2 Now, you could have submitted testimony
3 that analyzed alternate sites, as well, because
4 you're a party, just like they are. But that's
5 what they're testifying on.

6 MR. AJLOUNY: Okay, and that's what I'm
7 asking them on. Whether he --

8 HEARING OFFICER FAY: Regarding the
9 alternate sites they submitted testimony on? It
10 sounded like you were asking about other possible
11 alternate sites.

12 MR. AJLOUNY: Yeah, because it's
13 publicly known, and I wanted to know if Gary was
14 on top of it, doing his job. Because I would
15 think if an alternate site came before him before
16 these hearings he would do something about it. It
17 sounds like he did on this one. I have a couple
18 more. And if he did on those, great. If he
19 didn't, --

20 HEARING OFFICER FAY: His testimony
21 talks about the screening process they went
22 through. So, why don't you stick to that. They
23 screened a number of sites, and then they narrowed
24 it down to --

25 MR. AJLOUNY: Okay. Did you screen the

1 Seventh and Tully site?

2 MR. WALKER: We didn't identify it, no.

3 MR. AJLOUNY: Okay. Did you have a
4 chance to find out -- well, I think you already
5 answered the gasline, powerlines are nearby.

6 Did you have a chance to look and see if
7 recycled water --

8 MR. HARRIS: I'm going to restate my
9 objection. The witness -- actually the questioner
10 is testifying --

11 MR. AJLOUNY: First of all, you're
12 not --

13 MR. HARRIS: -- and he had a right to
14 prefile this testimony. I don't have anything
15 with which to review, and to cross-examine with on
16 these same questions. It's not part of his
17 prefiled testimony, and this testimony in the form
18 of a question should not be allowed to go forward.

19 MR. AJLOUNY: -- Bay Area Air Quality
20 Management District --

21 MS. DENT: I'm going to make a statement
22 for the record that I think that the thoroughness
23 of the witness' review under CEQA is a relevant
24 matter for Mr. Ajlouny to inquire into. I believe
25 the thoroughness of the witness' CEQA review is

1 before this Commission and failure to include
2 alternatives for whatever reason is an issue
3 before the Commission.

4 HEARING OFFICER FAY: All right, the
5 adequacy of the CEQA review is certainly a matter
6 of concern to the Commission. And the staff has
7 reviewed how they did this. And you're certainly
8 welcome to ask anything that was in their prefiled
9 testimony about the process they used.

10 But, it's beyond the scope of that to
11 ask about every other possible alternative site --

12 MR. AJLOUNY: Well, I only got two, I
13 think I only got two or three here. I mean we're
14 spending more time -- okay, first of all, the rule
15 I always heard was their lawyer should object.
16 And here's --

17 MR. HARRIS: I'm the applicant in this
18 case, and I have a right to have prefiled
19 testimony. The applicant has due process rights.

20 MR. AJLOUNY: Okay, then I just want to
21 remind you of the rights that we have as
22 intervenors to have prefiled testimony and only
23 that testimony be talked about in Mr. Lim is
24 it --

25 MS. CORD: Dr. Lim.

1 MR. AJLOUNY: -- Dr. Lim's testimony,
2 and you gave the option, the Commissioner, I
3 think, said we'll keep it open for a couple weeks
4 to see if you wanted to cross-examine on this new
5 surprise. I mean this isn't really a big
6 surprise. It's been in San Jose's paper and
7 everything else, but whatever the deal is.

8 I'd ask for the same consideration.

9 HEARING OFFICER FAY: No, it's not the
10 same at all. Dr. Lim filed some testimony and he
11 responded orally. You and some others believed
12 that he went beyond the scope of his written
13 testimony, and in an abundance of caution to be
14 fair, we offered to bring Dr. Lim back. And the
15 City of San Jose took us up on that. And he will
16 be here tomorrow morning.

17 So, the people have had all that time to
18 review his transcript. The transcript of his
19 hearing.

20 PRESIDING MEMBER LAURIE: We're spending
21 a lot of time arguing, and we're not going to do
22 that.

23 If you're interested in other sites,
24 you'll be permitted to ask these witnesses
25 questions whether specific sites were included in

1 their examination process. That's as far as it
2 could go.

3 So, if you have site X, you can ask them
4 whether site X was included. And you can follow
5 that up by saying why not. And he might say I
6 don't know.

7 MR. AJLOUNY: Okay, thank you for your
8 guidance.

9 I think I beat Seventh and Tully. I
10 think I only have one more, I can't even remember.
11 Did you include -- oh, wait, I had one off -- can
12 I ask Peter Mackin for his expert testimony that
13 hypothetically if a power plant was built on Tully
14 Road in that location, near what substation was
15 that that we talked --

16 MS. CORD: Center.

17 MR. AJLOUNY: -- Center substation,
18 hypothetically, how many megawatts, top of your
19 head kind of thing, normally expert some kind of,
20 it's a 115 kV line, do you think 125 megawatts
21 is --

22 SPEAKER: He answered that earlier
23 today.

24 MR. AJLOUNY: Did he?

25 SPEAKER: Yes.

1 MR. AJLOUNY: I don't remember that.

2 SPEAKER: He told you yes, probably.

3 MR. AJLOUNY: Okay, I'm sorry, see I
4 lost -- do you remember answering that before
5 about if 125 megawatts is reasonable to be put --

6 MR. MACKIN: On a 115 kV line?

7 MR. AJLOUNY: Yeah, at that location
8 from what you know?

9 MR. MACKIN: Well, from what I know, I
10 don't know what the conductor size is. Normally,
11 you know, 715 aluminum, which is a fairly standard
12 conductor size, can handle around 120 or 150
13 megawatts.

14 MR. AJLOUNY: Okay.

15 MR. MACKIN: Per circuit. So you could
16 conceivably put, you know, 125 megawatt plant at
17 that location. But it may have to be tripped for
18 contingencies.

19 MR. AJLOUNY: Okay. Are you aware of
20 the site in Milpitas on Curtis Avenue? Peter?

21 MR. MACKIN: No, I'm not.

22 MR. AJLOUNY: Gary, are you aware of
23 that one?

24 MR. WALKER: Yeah, that was -- yeah, I'm
25 aware it was mentioned in the website of Santa

1 Teresa.

2 MR. AJLOUNY: Okay. Why didn't -- how
3 was that question supposed to be asked? I'm
4 sorry. What -- did you analyze this in your
5 analysis in alternatives?

6 MR. WALKER: It wasn't one of the sites
7 that we identified to screen, no, it wasn't.

8 MR. AJLOUNY: So why didn't you analyze
9 it?

10 MR. WALKER: From what I know about it,
11 it's not close to a 230 kV line, and we looked for
12 sites that were close to 230 kV lines.

13 MR. AJLOUNY: Okay, and that's because
14 you were looking for a 600 megawatt power plant?

15 MR. WALKER: Yes.

16 MR. AJLOUNY: But if you wanted to put
17 something like 250 megawatts, then you might have
18 looked at the 115 kV lines?

19 MR. WALKER: I would have to consult --

20 MR. AJLOUNY: Okay, maybe Peter --

21 MR. WALKER: -- with Peter --

22 MR. AJLOUNY: -- can answer that better.

23 MR. WALKER: Yeah.

24 MR. AJLOUNY: If you wanted to put like
25 a 250 megawatt power plant -- well, you're not

1 familiar with the one in Milpitas, but --

2 MR. MACKIN: No.

3 MR. AJLOUNY: -- let me ask my question.

4 MR. MACKIN: Okay.

5 MR. AJLOUNY: The 250 megawatt power
6 plant on Curtis Avenue, off of Curtis Avenue in
7 Milpitas, with your knowledge, first of all do you
8 know where Curtis Avenue is?

9 MR. MACKIN: No, I don't. Yeah, I need
10 a substation.

11 MR. AJLOUNY: Yeah, it's right near the
12 substation. Gary, you're aware, do you know where
13 that substation?

14 MR. WALKER: The one in Milpitas?

15 MR. AJLOUNY: Yeah.

16 MR. WALKER: Yeah, it's in a generally
17 high tech industrial park area. It's --

18 MR. AJLOUNY: Would it be --

19 MR. WALKER: -- Milpitas, you're talking
20 about the Milpitas substation.

21 MR. AJLOUNY: It's the Milpitas
22 substation?

23 MR. WALKER: Yeah, if it's in Milpitas,
24 yeah, near the site, it's the Milpitas substation.

25 MR. AJLOUNY: So, Peter, would the

1 Milpitas substation be able to handle a 250
2 megawatt power plant?

3 MR. MACKIN: You know, I'm not real
4 familiar with the area. I mean if I had a one
5 line diagram I could look at it. You know, it
6 really depends on how much load is at the
7 substation, what the conductor size, how many
8 lines feed the substation.

9 250 is, you know, it's getting up there.
10 And so depending on the system, you know, you may
11 be over the limits.

12 MR. AJLOUNY: Okay.

13 PRESIDING MEMBER LAURIE: You're going
14 too far.

15 MR. AJLOUNY: Yeah, I'm leaving it
16 alone. I figured that, too. So I'm leaving it
17 alone.

18 I'm just going to leave it alone. Don't
19 want to upset my friends over there. Just going
20 through questions that have been answered, if
21 you'll give me a second here.

22 Okay, if you could turn to page 710 of
23 your testimony, Gary, on alternatives. Are you
24 there, Gary? You're familiar with this table?

25 MR. WALKER: Yes, I am.

1 MR. AJLOUNY: This information come from
2 you?

3 MR. WALKER: No, it did not.

4 MR. AJLOUNY: Blows my questions.

5 MR. WALKER: This is table 2, right?

6 MR. AJLOUNY: Yeah.

7 MR. WALKER: This table came from the
8 transmission system planning folks, the ones who
9 do the local system effects testimony.

10 MR. AJLOUNY: Oh, okay, I thought you
11 were going to say management made you put it in
12 again. I'm sorry.

13 Okay, so does this mean like from the
14 ISO, Peter Mackin, then?

15 MR. WALKER: Well, Peter Mackin reviewed
16 it, but I think it was actually prepared by Energy
17 Commission Staff. Peter could answer that better.

18 MR. MACKIN: You're referring
19 specifically to who prepared the table? Or who
20 prepared the work that went into the table?

21 MR. AJLOUNY: Who prepared the work that
22 went into the table?

23 MR. MACKIN: Both the ISO, myself, and
24 Energy Commission Staff worked on it.

25 MR. AJLOUNY: Okay. So, Gary, you

1 didn't do this, then, huh?

2 MR. WALKER: No, I did not.

3 MR. AJLOUNY: All right, then let me ask
4 the basics. Do you agree with this table?

5 MR. MACKIN: Are you asking me or Gary?

6 MR. AJLOUNY: Gary, and I'll ask you
7 right after.

8 MR. WALKER: I'm not an expert in that
9 field. My only basis for agreeing or not would be
10 the information that has been provided in regard
11 to say local system effects related to these
12 topics, which I have read, but I did not prepare.

13 MR. AJLOUNY: And so, Peter, do you
14 agree with this table?

15 MR. MACKIN: Yes, I do.

16 MR. AJLOUNY: Do you have any changes to
17 it?

18 MR. MACKIN: No, I don't.

19 MR. AJLOUNY: So just real quickly,
20 Peter, I guess you'd be the one to ask, I want to
21 go through the performance measure, that column
22 there. On system losses, is it true, and I want
23 to focus in on alternates 1, 2, 3 and 4, because
24 that's where my heart is, as far as alternate
25 sites.

1 So it's true they're both substantially
2 better than Metcalf, the system losses?

3 MR. MACKIN: Yes.

4 MR. AJLOUNY: Okay. Outage related
5 overloads, both somewhat better?

6 MR. MACKIN: Yes.

7 MR. AJLOUNY: Than Metcalf?

8 MR. MACKIN: Yes.

9 MR. AJLOUNY: Outage related voltage
10 drop, essentially the same to somewhat better for
11 both, for all four, I should say?

12 MR. MACKIN: For all four, yes.

13 MR. AJLOUNY: Okay. VARS support,
14 essentially the same for all four?

15 MR. MACKIN: Um-hum, yes.

16 MR. AJLOUNY: And RMR?

17 MR. MACKIN: Yeah, the same.

18 MR. AJLOUNY: The same. And overall
19 system performance impact, it says somewhat better
20 for all four alternate sites?

21 MR. MACKIN: Right.

22 MR. AJLOUNY: Okay. Interconnection
23 costs, for alternates 1 and 2 it says somewhat
24 worse?

25 MR. MACKIN: Right.

1 MR. AJLOUNY: And 3 and 4, worse. And I
2 want to focus in on that piece of it. The
3 interconnection costs cost more because it's
4 probably further from the wire, and so it just
5 costs more to get the wire from the power plant to
6 the connection? Is that what --

7 MR. MACKIN: I believe the locations,
8 the alternative sites, --

9 MR. AJLOUNY: Yes.

10 MR. MACKIN: -- are further from the
11 substation, so the line length is longer than --

12 MR. AJLOUNY: Okay.

13 MR. MACKIN: That's why the difference.

14 MR. AJLOUNY: Good, okay, that's what I
15 thought. So, but if I go to the very top of
16 system losses, substantially better. Would you
17 think the money saved in the losses would pay for
18 the interconnection, which is a one-time charge?
19 Is that easy to assume?

20 MR. MACKIN: Well, it's not easy to
21 assume. I mean it's easy to say that the system
22 loss savings would offset the higher
23 interconnection costs, but whether, you know, the
24 loss savings would exceed the interconnection cost
25 difference, I don't know.

1 MR. AJLOUNY: Well, I think you
2 testified, you know, I brought you to a paragraph
3 and now I don't know where it is, but about the
4 millions of dollars that Metcalf saves because of
5 loss, and in the system losses you mentioned in
6 testimony when I cross-examined you, was half as
7 much loss. So we could double the moneys.

8 MR. MACKIN: Right.

9 MR. AJLOUNY: So, and that was millions
10 of dollars. And I think I heard testimony
11 earlier, I think yesterday, that cost for lines
12 are \$2 million to \$10 million per mile, which I
13 don't know where the evidence is on that, but --

14 MR. MACKIN: Right, but I guess one
15 point of clarification, actually in table 3 there
16 is a quantification of energy loss savings --

17 MR. AJLOUNY: There it is, thank you.

18 MR. MACKIN: Okay, but I guess one thing
19 to clarify is that those loss savings are not
20 necessarily going to be 100 percent captured by
21 the generator. It could partially be saved by
22 ratepayers.

23 So, you know, you can't say that just
24 because 7.6 million is greater than, you know, --

25 MR. AJLOUNY: Yeah, but in today's

1 environment with us bailing out PG&E, I mean it's
2 almost the same pocket. But, anyway, that's fine.

3 What about which one of those
4 performance measures is a voltage collapse, which
5 I heard testimony on earlier I think it was today
6 about voltage collapse?

7 MR. MACKIN: That would be the VARS
8 support, reactive margin.

9 MR. AJLOUNY: Okay, so it's --

10 MR. MACKIN: In table 2.

11 MR. AJLOUNY: Okay, great. So it looks
12 like in table 3 on 711, since I don't want to beat
13 this to death, it looks like you quantified it by
14 megawatts, gigawatt hours and then moneys, and
15 then it pretty much agrees with table 2, but it
16 shows it in a different way, where it shows
17 actually wattage and dollars. Is that --

18 MR. MACKIN: Right, everything is the
19 same. It all --

20 MR. AJLOUNY: Okay.

21 MR. MACKIN: -- for each alternative it
22 keys off the megawatt reduction and system losses
23 and then everything follows proportionately from
24 there.

25 MR. AJLOUNY: In the value of estimated

1 annual energy saved, like it says -- so every year
2 we're saving well over \$3 million if we use
3 alternates 3 and 4, or alternates 1 and 2, a year?

4 MR. MACKIN: That's the estimated annual
5 value of the energy savings. Now, it depends on
6 who saves that. Yeah, but that's a savings that
7 we quantified.

8 MR. AJLOUNY: Okay. I think we did this
9 already, but let me verify. Okay, we did that.
10 So I guess, I didn't hear, I think I heard only
11 one correction, Gary, in your testimony, was that
12 table?

13 MR. WALKER: Yes.

14 MR. AJLOUNY: But on page 762 and I
15 don't want to nit this, I think it's just assumed,
16 but just to point it out, the last two sentences
17 it says -- are you there?

18 MR. WALKER: Yes.

19 MR. AJLOUNY: And, maybe, Peter, you can
20 answer this, I don't know. "Technical staff has
21 estimated that the proposed project could defer
22 the third 500/2 kV transformer.

23 That's not true today anymore, is that
24 correct? Because it's already been approved, or
25 what?

1 MR. MACKIN: Well, okay, I guess if you
2 want to look at it from the could defer, it could
3 defer it. Now, whether it will defer, it's less
4 likely now than when this was written.

5 MR. AJLOUNY: Okay, maybe that's --
6 okay, great. Okay, on page 762, wait a minute --
7 Peter, on 762, I imagine this is coming from you
8 because it says the ISO letter, there's a
9 paragraph right under offsite impacts in the
10 center.

11 MR. MACKIN: Yeah.

12 MR. AJLOUNY: The ISO letter stated
13 such-and-such. Do you want to just take a second
14 and read that or are you familiar with that?

15 MR. MACKIN: Okay.

16 MR. AJLOUNY: Can you explain what
17 you're really saying there? Are you referring to
18 like the items on 761, or --

19 MR. MACKIN: Okay, right, it's referring
20 to the deferral candidates that were identified in
21 LSE, and I think that's still the case even though
22 we modified the actual lines in the LSE testimony,
23 it's still true that the potential projects would
24 not require new right-of-way.

25 Now, there's other potential projects

1 that were not identified, I mean there's always
2 potential projects that could require right-of-
3 way, but the statement is still correct that it's
4 uncertain.

5 MR. AJLOUNY: Okay, well then the only
6 thing I want to point out is you made a correction
7 to your testimony and crossed out like a couple
8 things and added some thing, so with all the
9 corrections of those deferrals, if I'm on target,
10 tell me if I'm off base, that statement's still
11 true today? I just wanted to make sure it was.

12 MR. MACKIN: The statement about offsite
13 impacts, that first paragraph --

14 MR. AJLOUNY: And the right-of-way?

15 MR. MACKIN: Yeah, that's still a
16 correct statement. The identified deferral
17 candidates have been changed, but the statement is
18 still correct.

19 MR. AJLOUNY: Okay. All right, I think
20 this would be for Gary, on page 707 of the FSA, it
21 talks about starting on page 707, Gary, in your
22 testimony -- well, first of all before I go, is
23 this your testimony?

24 MR. WALKER: Yes.

25 MR. AJLOUNY: Do you still believe it's

1 true today?

2 MR. WALKER: Yes.

3 MR. AJLOUNY: No surprises on that one.

4 Item number one, beginning -- okay, maybe I should
5 make sure I understand this right. Are these the
6 things that you look at for criteria for picking
7 an alternate site that meets, you know what I
8 mean, what you look to see if an alternate site --
9 help me explain, what's this section mean?

10 MR. WALKER: These criteria are the
11 criteria by which potential alternative sites were
12 judged to determine whether they merited
13 additional more detailed evaluation. That's why
14 they're called screening criteria.

15 We screened out the 17 identified sites
16 and found that only six of the 17 satisfied the
17 criteria for further evaluation.

18 MR. AJLOUNY: Okay, so the first one,
19 looks like there's three criterias, if I remember.
20 Okay, yeah, there's three criterias. And the
21 first one is being on line by the summer peak of
22 2002. And I would imagine any reference about
23 being on line in 2002 could automatically, all of
24 your testimony would be changed to 2003, or --

25 MR. WALKER: Well, it's by as soon as

1 possible, really.

2 MR. AJLOUNY: As soon as possible?

3 MR. WALKER: Yeah.

4 MR. AJLOUNY: So I can't change any,
5 okay. I think what I wanted to point out here,
6 and I know I'm going to get clobbered here, but I
7 wanted to point out that six month process, I
8 realize six months for an AFC, the new law, if it
9 meets requirements.

10 Eighteen months to build a power plant.
11 And with the experience of what Calpine has today,
12 with their credits and everything, I would imagine
13 putting an AFC together would take a few months.
14 And that's just my imagining, so it's 18 and so
15 maybe two years, four months? Does that sound
16 reasonable to move on one of these alternate
17 sites? My math correct?

18 MS. WILLIS: I'm going to object. We've
19 gone over this line of questioning earlier tonight
20 before dinner.

21 MR. AJLOUNY: Well, I did it
22 prematurely, I think, because of my inexperience.
23 I did, I mean I'm here now and I think it's
24 relevant.

25 HEARING OFFICER FAY: Yeah, but you got

1 an answer, as I recall. It was asked and
2 answered.

3 MR. AJLOUNY: Oh, you guys, help me out

4 --

5 HEARING OFFICER FAY: And also --

6 MR. AJLOUNY: But did he --

7 HEARING OFFICER FAY: -- it's not even
8 clear that this was a question. It sounded
9 like --

10 MR. AJLOUNY: Okay, is --

11 HEARING OFFICER FAY: -- you were
12 testifying.

13 MR. AJLOUNY: -- two to two and a half
14 year process for one of these alternates with all
15 the things we discussed before dinner, reconfirm
16 that in my mind, so I can continue. Is it clear
17 to think maybe a two to two and a half year
18 process from beginning to end, to have power being
19 generated at one of these alternate sites.

20 And I'm specifically talking about 1
21 through 4.

22 MR. WALKER: Okay. Do you want me to
23 respond in relation to the standard 12 month
24 process --

25 MR. AJLOUNY: No, the six month process,

1 because I think 3 and 4 fit that, from what I
2 heard so far. At least that's what's going to be
3 in my brief.

4 MR. WALKER: Okay. If you assumed --
5 remember that in the executive summary it said 18
6 to 30 months without counting construction. And I
7 said that included both the preparation of the
8 application and then the certification process.

9 And the lower end meant six months for
10 preparation and approximately 12 months for the
11 process. So that's six prep and 12 for the
12 process.

13 And then the range was 18 to 22 months
14 for construction. So, --

15 MR. AJLOUNY: Well, the process is six
16 months, so --

17 MR. WALKER: I understand, so that's --
18 Mr. Fay mentioned a number there, but it seems to
19 me that this adds up here to minimum of 36 months.
20 You got 6, 12 and 18, that's 36.

21 If instead you had a six month AFC
22 preparation time, a six month processing time, and
23 minimum 18 month construction time, that's six
24 months less or 30 months.

25 MR. AJLOUNY: Okay, so that I'm not off

1 base then. I was saying two to two and a half
2 years. Thirty months is two, yeah, two and a half
3 years.

4 MR. WALKER: Two and a half years is 30
5 months, yes.

6 MR. AJLOUNY: Okay, so that's the low
7 end. High end is three years. So even if we took
8 the high end, three years from maybe when the
9 decision come --

10 MR. WALKER: That's really not the high
11 end because remember it was 18 to 30 months for
12 the total normal process. Because if you assume
13 the six months, yes. If you assume the six
14 months, yes.

15 MR. AJLOUNY: Okay, that's what I'm
16 assuming.

17 MR. WALKER: Okay.

18 MR. AJLOUNY: I think -- I'm assuming.
19 So, by the end of 2003 we could have a power
20 plant, if the decision came out June --

21 MR. WALKER: If you added --

22 MR. AJLOUNY: Two and a half years.

23 MR. WALKER: -- 30 months, two and a
24 half years, --

25 MR. AJLOUNY: Well, I'd rather not

1 management talk to, since we already know that
2 management has a tendency to push -- I'd rather
3 just hear from the expert witness. It sounds like
4 it's a two and a half year process.

5 MR. WALKER: With a scenario of a six
6 month application process, it would be estimate a
7 total of 30 months. If you assumed that MEC would
8 be certified June of this year, it would be two
9 and a half years from June of this year, which is
10 2001, so that would be the end of 2003.

11 MR. AJLOUNY: Okay, great. So
12 conceivably 2003, end of 2003, beginning of 2004,
13 would be a power plant to meet our needs and make
14 sure no one dies from air conditioning, lack of
15 air conditioning, is that true?

16 MS. WILLIS: I'm going to object.

17 MR. AJLOUNY: I'm sorry, I had to throw
18 that --

19 MR. WALKER: She objected.

20 MR. AJLOUNY: Okay, then don't answer
21 it.

22 So I got that point, so let's go to the
23 second one. Providing Bay Area electrical grid
24 reliability.

25 It looks like from the charts we just

1 went through, it sounds like it still would
2 provide Bay Area electrical grid. It would
3 probably meet that requirement?

4 MR. WALKER: As it says in the
5 testimony, to differing degrees.

6 Peter, do you want to address that?

7 MR. MACKIN: Okay, so the question is
8 would the alternative sites --

9 MR. AJLOUNY: One through 4.

10 MR. MACKIN: -- 1 through 4 meet the --
11 okay, we're talking about the --

12 MR. AJLOUNY: Providing Bay Area
13 electrical grid reliability benefits.

14 MR. MACKIN: Okay.

15 MR. WALKER: It's page 709, item 2.

16 MR. MACKIN: Yeah, for Bay Area electric
17 grid reliability benefits. Yes, they would.

18 MR. AJLOUNY: Okay, so we got that one
19 down. And then mitigating transmission congestion
20 in the area, I think I read in here that we meet
21 that requirement, also, is that correct? With
22 alternate -- I think there it is, on page 710,
23 that connected --

24 MR. WALKER: The testimony says the
25 sites 1 through 4 meet the objective, and 5 and 6

1 do not.

2 MR. AJLOUNY: Okay, good. So, really
3 our only stumbling block is getting this thing on
4 line out of those three screening things that I
5 see, the thing that might oppose a person like
6 me's goals --

7 HEARING OFFICER FAY: Is this a
8 question?

9 MR. AJLOUNY: Yeah. I would say a
10 person like me, who I'm making it very evident
11 where my goal is, the only stumbling block that
12 might be there to meet one of your three
13 requirements is number one, being on line sooner
14 than Metcalf? That was my --

15 MR. WALKER: I could clarify. What you
16 were asking about, those three items, those were
17 the three basic objectives of the project that
18 were identified. They weren't all the screening
19 criteria.

20 MR. AJLOUNY: Okay. But we went through
21 all the different topics and it looks like it's
22 looking pretty good when you look at all the --
23 and I don't want to take the time to go through
24 every one of them, but when you look at especially
25 3 and 4 it looks like it's significantly better

1 than Metcalf in all those topics.

2 MR. WALKER: All I'm saying is that
3 there are other criteria that we looked at, like
4 substantially lessening or avoiding the
5 significant impact. And satisfying the
6 feasibility screening criteria. It's all in here,
7 but --

8 MR. AJLOUNY: Okay.

9 PRESIDING MEMBER LAURIE: Let me ask a
10 question here, and I won't take your time, so your
11 time --

12 MR. AJLOUNY: That's okay.

13 PRESIDING MEMBER LAURIE: -- is stopped
14 for a moment. Go over with me again your
15 understanding of the six month criteria. Do you
16 know what that six month statute says?

17 MR. WALKER: I have read it. I remember
18 parts of it. I don't remember all of it.

19 PRESIDING MEMBER LAURIE: So how do you
20 sit here today and offer an opinion, if that is
21 what you have done, that any of the alternatives
22 would qualify for the six month process?

23 MR. WALKER: I did not make that
24 opinion.

25 PRESIDING MEMBER LAURIE: Okay.

1 MR. AJLOUNY: I was doing that --

2 PRESIDING MEMBER LAURIE: Okay, that's
3 fine.

4 CHAIRMAN KEESE: Are you suggesting that
5 there would be no community objection to a plant
6 there? To any of those four plants?

7 MR. AJLOUNY: Are you suggesting by that
8 question that there will be?

9 CHAIRMAN KEESE: I'm suggesting that if
10 there -- one of the criteria is that there would
11 be no --

12 MR. AJLOUNY: Okay.

13 CHAIRMAN KEESE: -- community impact
14 really.

15 MR. AJLOUNY: That's true.

16 CHAIRMAN KEESE: No community impact, so
17 that if there's --

18 MR. AJLOUNY: Okay. And the point of
19 the testimony that I saw was that those sites, 3
20 and 4, are heavy industrial, and they're already
21 looking that way. So this is quite different than
22 what we have today, that --

23 CHAIRMAN KEESE: Well, I'm just --

24 MR. AJLOUNY: So I would think if it's a
25 heavy --

1 CHAIRMAN KEESE: Then that the community
2 would support it?

3 MR. AJLOUNY: Yeah, I would think. It's
4 like Moss Landing, they welcomed Moss Landing
5 because they took an ugly thing and --

6 PRESIDING MEMBER LAURIE: Okay, we're
7 back on your clock.

8 MR. AJLOUNY: All right, buddy. I was
9 trying to use as much as I could of yours.

10 HEARING OFFICER FAY: The meter's
11 running.

12 MR. AJLOUNY: Okay, no problem. Okay,
13 just want to make sure I got all my topics, so I
14 might be close to the end here.

15 Okay, Peter, you ready for this one,
16 buddy?

17 MR. MACKIN: I guess I'm ready for
18 anything.

19 MR. AJLOUNY: All right. I know this is
20 a hypothetical, --

21 MR. MACKIN: I like those.

22 MR. AJLOUNY: Okay. And I really would
23 appreciate just give me your honest answer, keep
24 your eyes closed so no lawyer tells you you can't
25 answer it, we'll put some visual blinders on, put

1 some trees in between you, --

2 HEARING OFFICER FAY: The question?

3 MR. AJLOUNY: If you had to choose one

4 power plant, Peter, which one would you choose?

5 Metcalf or alternates 1, 2, 3 or 4? If you had to

6 choose one, give me your gut feeling, your

7 expert --

8 MR. MACKIN: On what basis? I mean

9 on --

10 MR. AJLOUNY: On everything you know.

11 MR. MACKIN: -- including everything?

12 MR. AJLOUNY: Yeah, everything you know.

13 MR. MACKIN: I would pick Metcalf.

14 MR. AJLOUNY: You would?

15 MR. MACKIN: Yes, I would.

16 MR. AJLOUNY: And did you include all

17 the environmental things and everything, you know,

18 about the environmental?

19 MR. MACKIN: Well, remember, I'm not the

20 environmental expert, but yes, I did.

21 MR. AJLOUNY: Okay, even though it's

22 half loss at Newark station?

23 PRESIDING MEMBER LAURIE: He's answered

24 the question.

25 MR. MACKIN: Right.

1 MR. AJLOUNY: Okay. Well, I guess I'm
2 surprised by his testimony --

3 PRESIDING MEMBER LAURIE: That's the
4 danger of asking a question that you don't know
5 the answer to.

6 MR. AJLOUNY: I know.

7 (Laughter.)

8 MR. AJLOUNY: Well, I can't know the
9 answer to it because I can't call him up earlier
10 and find out. I mean I got cut off months ago,
11 Commissioner.

12 By the way, some of these might be like
13 what you call workshops or fact-finding type of
14 questions, and I agree with you. But I really
15 want you to know that I tried to, I even have
16 email copies of trying to get some answers from
17 Mr. Mackin. Mr. Mackin says, I can't answer it,
18 go through Paul Richins, and he copied Paul, and
19 Paul still wouldn't answer.

20 HEARING OFFICER FAY: But there's quite
21 a clue in Peter Mackin's prefiled written
22 testimony. I might have guessed at the answer he
23 gave.

24 MR. AJLOUNY: Well, the thing is from
25 what I'm looking at, his testimony being part of

1 alternatives, all this study about power like on
2 page 709, let me ask you this:

3 Third paragraph down, last sentence, it
4 says: For the study year 2005 loss reductions for
5 Los Esteros, alternative sites 1 and 2, and
6 Newark, alternatives 3 and 4, are substantially
7 better than Metcalf.

8 MR. MACKIN: Yes.

9 MR. AJLOUNY: Averaging about 30
10 megawatts more loss reduction than Metcalf.

11 MR. MACKIN: Right.

12 MR. AJLOUNY: Then you go to two more
13 paragraphs down and it says: The analysis reveals
14 that use of sites 1, 2, 3 or 4 were better than or
15 essentially the same as the proposed project for
16 each of the performance measures, and somewhat
17 better overall.

18 So, I guess I'm thinking if you said it
19 here, so that's where -- I guess maybe what you
20 mean by somewhat better overall. I mean, --

21 MR. MACKIN: It means somewhat better
22 overall, you didn't ask me, you know, -- you asked
23 me Metcalf or an alternate site, and I said
24 Metcalf.

25 MR. AJLOUNY: Okay, why do you base your

1 decision, then, let me ask you that.

2 MR. MACKIN: Because Metcalf can be on
3 line quicker.

4 MR. AJLOUNY: Okay, good. Thank you,
5 Jesus. Right on.

6 (Laughter.)

7 MR. AJLOUNY: Sorry about that, but
8 that's important to me. So, you're going on the
9 presumption of time.

10 Now, let's take that out of the
11 equation, hypothetically, now I'm dying here
12 because he'll probably Metcalf again, but --

13 PRESIDING MEMBER LAURIE: What's the
14 question?

15 MR. AJLOUNY: Same question, without
16 time and looking at all your testimony, what would
17 your answer be?

18 MR. MACKIN: Okay, so now I can only
19 pick one plant?

20 MR. AJLOUNY: Yeah, you can only pick
21 one, and you can't consider the time of
22 construction.

23 MR. MACKIN: So, in other words, all
24 plants can be on line at the same time?

25 MR. AJLOUNY: Yes.

1 MR. MACKIN: Okay, then I would probably
2 pick Newark or Los Esteros.

3 MR. AJLOUNY: Oh, hoo, yes, thank you,
4 Jesus. All right. Good. Thank you.

5 All right. I'm sorry. Okay, I got a
6 couple more here. This one's for Mr. Donaldson.

7 MR. DONALDSON: Yes.

8 MR. AJLOUNY: Something that -- in the
9 cross-examination something came up about 237 and
10 Zanker, and my word is like camouflage, you know,
11 putting up trees to kind of make it where visually
12 it won't be significant impacts.

13 So I guess my question is that. Can you
14 put up trees to hide 237 and Zanker and camouflage
15 it to make it less than significant impact?

16 MR. DONALDSON: To put landscape
17 screening along highway 237 and Zanker --

18 MR. AJLOUNY: Yes.

19 MR. DONALDSON: -- that would
20 effectively reduce the impacts to be assured that
21 they were less than significant? Was that the
22 question?

23 MR. AJLOUNY: Yes, exactly.

24 MR. DONALDSON: Yes is the answer.

25 MR. AJLOUNY: Okay, let me ask you

1 another one. Questions came up about a
2 substation, and maybe your lack of knowledge of
3 the new technology and how it would look.

4 With that in mind and what you just
5 testified about, Zanker and 237, in the area that
6 it's in and stuff, could you accomplish the same
7 thing with the substation and the power plant by
8 the trees and the shrubs and -- to make them less
9 than significant?

10 MR. DONALDSON: I believe that you could
11 provide landscape screening as part of the
12 project. Either the power plant on either site or
13 the substation, that would, in effect, maintain
14 the visual quality of the area -- the visual
15 impacts less than significant. Yes.

16 MR. AJLOUNY: Okay, great. So in a
17 sense -- this is my words, but do you look at the
18 transformers and the wires and all that almost
19 like on an equal plateau as a power plant as far
20 as you put it on, no matter how big or how you
21 make this substation, it pretty much is on the
22 same plateau as a power plant, it just matters
23 where it's located in the environment around you,
24 whether the trees would lessen significant -- you
25 know, make it less than significant?

1 MR. DONALDSON: It's a little bit tough
2 to compare a substation of various sizes with a
3 power plant of you know, really unknown design or
4 configuration. Makes it a little bit difficult to
5 hypothesize about a comparison of those things.

6 However, I believe, given the, you know,
7 what I have observed and analyzed regarding sites
8 alt 2 and alt 1, and the location from what I
9 understand of the substation there, that the
10 impacts could be reduced to less than significant,
11 or be maintained at below a significant level
12 through the use of siting, through the use of
13 design techniques, and through the use of really a
14 combination of elements, probably not just
15 landscape screening.

16 It would be a combination of elements.
17 And that's my -- I believe that that is expressed,
18 maybe not exactly in those words, but it is
19 expressed in my testimony to that effect.

20 MR. AJLOUNY: Okay, great. I just, you
21 know, can't read everything, I guess. Thank you.

22 I've got my last set of questions for my
23 friend next to me here, Mr. Tyler. Right, Tyler?
24 Great. We get to play ball again, buddy. I'll be
25 nicer this time, I'm a little bit more calmed

1 down.

2 In your analysis that you talked about
3 in your supplemental document here, you talked
4 about outages, you know, Metcalf and the outages
5 and stuff, and how we could be affected in so many
6 different areas.

7 Did you do that same thing for the
8 alternates, any of the alternates analysis?

9 MR. TYLER: What I would say is that my
10 analysis basically was based on the concept that
11 a) increase in indigenous generation creates a
12 redundancy in the system, thereby improving
13 reliability substantially.

14 The conclusions I made with regard to
15 separation, islanding, and cascading outages were
16 based on the government report that I referenced.

17 So, to the extent that those other
18 facilities provide indigenous generation, they
19 would also provide that sort of benefit.

20 MR. AJLOUNY: Okay, so if we --

21 MR. TYLER: But they would do it in a
22 different timeframe, and with a different degree
23 of certainty.

24 This project is here before us now --

25 MR. AJLOUNY: Well, that's speculation,

1 I don't want to -- it is. We just went through
2 that.

3 MR. TYLER: What I'm saying is I'm
4 giving you my basis for what I said here. And
5 what I said is based on the fact that this
6 facility is before us now for consideration.
7 There's not necessarily another facility before
8 us.

9 So there's a degree of certainty
10 associated with this facility that may not exist
11 in the other cases. And there's a timeframe that
12 I believe to be shorter.

13 MR. AJLOUNY: Okay.

14 MR. TYLER: That was the basis.

15 MR. AJLOUNY: And you're familiar with
16 the power plant in San Francisco, Hunters Point?
17 Hunters Point is the one that they licensed but
18 never got built. Wasn't it Hunters Point?

19 MR. WALKER: San Francisco Energy.

20 MR. AJLOUNY: Okay, I'm sorry. Are you
21 familiar with the one in San Francisco that got
22 licensed and never built?

23 MR. TYLER: Yes, I am.

24 MR. AJLOUNY: Okay. Do you see that
25 being a potential here with all the complexities?

1 Because you seem to put time as an element for
2 your testimony, did you consider the time that, of
3 infinity, of not being built because of the
4 complexities?

5 MR. TYLER: I would still -- what I
6 guess my opinion is is that the relative certainty
7 of this facility compared to something that isn't
8 even on the table at this point in time, that this
9 one has higher certainty. That's the basis for my
10 decision.

11 This one is a real proposal, it's being
12 considered, there is no other proposal that I know
13 of in this area that's concrete, that's on the
14 table, and so that was the basis for me saying
15 that.

16 MR. AJLOUNY: Okay.

17 MR. WILLIAMS: You're over your time.

18 MR. AJLOUNY: No, I'm not, knock it off.

19 (Laughter.)

20 MR. AJLOUNY: You're familiar with the
21 June 14, 2000 blackout in northern California
22 here?

23 MR. TYLER: No, I'm not.

24 MS. CORD: Were you aware that there was
25 one?

1 MR. AJLOUNY: Were you aware that there
2 was a June 14th blackout?

3 MR. TYLER: In this year? 2000?

4 MR. AJLOUNY: 2000, yeah, June -- less
5 than a year ago. Mr. Knight, I might need your
6 help again to help your peer.

7 Are you familiar with the June 14, 2000
8 blackout?

9 MR. TYLER: I didn't examine any aspect
10 of the June 14, 2000, and I'm not really -- I
11 don't recall one being on that date, nor did I
12 study it.

13 MR. AJLOUNY: Okay. Wouldn't that be
14 significant for your testimony to try to find an
15 example of a blackout to see how we did in all
16 these examples of, you know, because June 14th
17 happened to be the hottest day, wouldn't that be,
18 what's the word, guys -- wouldn't it be
19 beneficial, relevant for your testimony to look at
20 one of the hottest days of the year and we have a
21 blackout in northern California? That amazes me.

22 MR. MACKIN: Issa, can I -- this is
23 Peter, I guess my mike is dead.

24 MR. AJLOUNY: Keep it that way. No, I'm
25 just kidding.

1 MR. MACKIN: But one thing I wanted to
2 add about June 14th, there's a difference, because
3 June 14th was controlled rotating blackouts. So
4 every individual location was only out for an
5 hour. That could be a lot different than
6 something where it's an uncontrolled outage and
7 locations are out for a day or many hours at a
8 time, so that, you know, you get a different
9 heating effects if you're only out for an hour
10 versus three or four or a day.

11 MR. TYLER: I wouldn't have considered a
12 rotating outage like that to be considered a
13 blackout. A blackout means that you have major
14 disruption for hours on end.

15 MR. AJLOUNY: So he saved you, huh?

16 MR. TYLER: It's uncontrolled.

17 MR. AJLOUNY: Okay. You mentioned in
18 your testimony, I don't have a page number, but
19 it's, you know, --

20 SPEAKER: Is it page 1?

21 MR. AJLOUNY: Okay.

22 MR. TYLER: No.

23 MR. AJLOUNY: It's this page where you
24 put all the new testimony about people dying
25 and --

1 MR. TYLER: That replaces 764.

2 MR. AJLOUNY: Okay. You have a
3 statement in the second paragraph, right in the
4 middle, it says: Heatwaves in California rank the
5 worst among all natural events in the history of
6 California for excess mortality except major
7 epidemics.

8 MR. TYLER: Um-hum.

9 MR. AJLOUNY: And where did you get that
10 information?

11 MR. TYLER: From the report I cited.

12 MR. AJLOUNY: Which is?

13 MR. TYLER: It's Oshley and Buechley
14 1970. I have a copy of it if you'd like to look
15 at it.

16 MR. AJLOUNY: Okay, no, that's fine.
17 I'm having you dig a hole here. Okay. I'm going
18 somewhere, I'm not just throwing out questions.

19 MR. TYLER: Okay.

20 MR. AJLOUNY: And then you mention, the
21 next sentence: Heat waves have caused more
22 fatalities in individual events than the 1906
23 earthquakes, 452 deaths. The San Francisco dam
24 collapse of -- oh, never mind.

25 So that one, did you get that from that

1 same documentation?

2 MR. TYLER: That's correct.

3 MR. AJLOUNY: So that bullet in that
4 documentation said that out of the hundreds that
5 have died in earthquake, more die because of heat?

6 MR. TYLER: That's correct.

7 MR. AJLOUNY: Okay. And then the San
8 Francisco dam collapse of 1928, 450 deaths. Can
9 you explain to me how a dam collapse and how it
10 killed people?

11 PRESIDING MEMBER LAURIE: Issa, no.
12 We're not going to take up our time here. It's a
13 matter of historical record that there was a dam
14 collapse and 400 people died.

15 MR. AJLOUNY: But did they die because
16 it was so hot? That's what I -- because see, he
17 referenced the document, I don't have any access
18 to the document.

19 HEARING OFFICER FAY: But this is not a
20 relevant avenue.

21 MR. AJLOUNY: Okay, the avenue is --

22 HEARING OFFICER FAY: It only gave
23 perspective. And --

24 MR. AJLOUNY: The avenue is we're in
25 northern California, it's not that hot here. Most

1 people in San Jose don't even have air
2 conditioners. And I was just, you know, you made
3 me spill the beans early, that's where I was
4 going.

5 HEARING OFFICER FAY: But you're to
6 question the witnesses, not offer these
7 statements.

8 MR. AJLOUNY: And I would be continuing
9 questioning the witness if I wouldn't be
10 interrupted. And I'm not trying to be rude, it's
11 just I was really going somewhere with this.

12 HEARING OFFICER FAY: But ask the
13 questions that are relevant.

14 MR. AJLOUNY: It's in his testimony, I
15 wanted to make sure he got it --

16 HEARING OFFICER FAY: Ask questions.

17 MR. AJLOUNY: All right. So how did the
18 dam kill 450 people?

19 MR. TYLER: The article didn't explain
20 how it killed 450 people.

21 MR. AJLOUNY: Wow, that's amazing.

22 MR. TYLER: It simply provided this as
23 perspective, as I did. In other words what it's
24 saying is heat waves are among the most serious
25 outcomes in terms of fatalities of naturally

1 occurring events. Even in California.

2 MR. AJLOUNY: Okay. Now, are you aware
3 that northern California, in the San Jose area,
4 doesn't really get that hot but maybe one week a
5 year, two weeks at the most? Okay, extremely hot
6 I'm talking about.

7 MR. TYLER: Typically heat waves in
8 California occur about once every ten years. The
9 kind that cause major fatalities.

10 MR. AJLOUNY: Okay.

11 MR. TYLER: I did look at five years of
12 data and I did find evidence of a heat wave in
13 1998 that I believe had the potential and probably
14 did cause fatalities. So I would say that based
15 on everything I've looked at --

16 MR. AJLOUNY: In northern California?

17 MR. TYLER: In northern California. As
18 a matter of fact, San Francisco is one of the most
19 vulnerable areas in the state.

20 MR. AJLOUNY: The coolest one, okay.

21 MR. TYLER: Well, see, that --

22 MR. AJLOUNY: That's fine. So, based on
23 the '98 -- okay, I'm sorry, go ahead and finish.

24 MR. TYLER: One of the most serious
25 aspects of heat waves is when they occur in areas

1 where you have normally cold climates. In fact,
2 heat waves in northern vicinities of the country
3 cause much greater fatality than in southern parts
4 of the country. And the reason is people don't
5 acclimatize to the heat.

6 MR. AJLOUNY: Okay.

7 MR. TYLER: And when there's a larger
8 difference between day and night time
9 temperatures, there's greater fatalities.

10 So northern parts of the state that get
11 hot occasionally would be expected to actually
12 have higher mortality rates.

13 HEARING OFFICER FAY: Issa, five
14 minutes.

15 MR. AJLOUNY: Okay, that's fair. Are
16 you aware that most people in San Jose do not have
17 air conditioners?

18 MR. TYLER: There --

19 MR. AJLOUNY: Yes or no?

20 MR. TYLER: No, I'm not really --

21 PRESIDING MEMBER LAURIE: Let me offer,
22 don't answer the question. You're offering a fact
23 that's not in evidence. There's no evidence
24 indicating whether or not most people in San Jose
25 have air conditioners.

1 MR. AJLOUNY: So I guess the question in
2 San Francisco most people don't have air
3 conditioners, you're not aware of that, either?

4 MR. TYLER: It's really not the
5 important point. The important point is that air
6 conditioning does exist in these areas, and that
7 every single public health agency that would give
8 recommendation to the public in such an event
9 would ask people --

10 MR. AJLOUNY: Okay.

11 MR. TYLER: -- to go to areas where
12 there is air conditioning.

13 MR. AJLOUNY: Okay. Based on your book
14 of reference, I notice the dates of all these
15 dates are years and years ago. Do you agree that
16 we've come a long way in our medical advances?

17 MR. TYLER: I quoted several different
18 articles ranging from the past to now. The reason
19 I focus so heavily on the one article is because
20 that article looked at two separate events, one in
21 1955 and one in 1963.

22 The reason I did that is because in 1955
23 there was not implementation of air conditioning
24 in that area. In 1963 there was, by the time the
25 1963 event rolled around, there was air

1 conditioning, heavy implementation of air
2 conditioning.

3 And so we get a look at what happens
4 when we don't have power to supply air
5 conditioning as opposed to when we do have air
6 conditioning and we have power to supply the air
7 conditioning.

8 MR. AJLOUNY: Okay. Well, a couple last
9 points. You did say in 1998 we had a heat wave in
10 northern California?

11 MR. TYLER: In San Jose --

12 MR. AJLOUNY: In San Jose, I mean.
13 Okay, great, that's good because I'm glad it's
14 here.

15 And you also mentioned that a heat wave
16 normally comes every ten years?

17 MR. TYLER: That's correct.

18 MR. AJLOUNY: Good, so we got till 2008
19 for our next one?

20 (Laughter.)

21 MR. AJLOUNY: Thank you, that's all I've
22 got.

23 MR. TYLER: I don't think you can --

24 PRESIDING MEMBER LAURIE: Mr. Tyler,
25 that's fine. The question was withdrawn.

1 Ladies and gentlemen, all you young pups
2 are doing great. But this old geezer is at
3 capacity, and we're going to cease the testimony
4 for tonight.

5 We will get it all done by starting
6 tomorrow.

7 We'll begin at 10:00 unless there's any
8 questions.

9 INTERVENOR: What time?

10 PRESIDING MEMBER LAURIE: 10:00.

11 HEARING OFFICER FAY: 10:00 a.m. and we
12 will begin with San Jose's cross-examination of
13 Dr. Lim from the Air District.

14 And as soon as that is completed, then
15 we'll return to cross-examination of the staff
16 witnesses.

17 PRESIDING MEMBER LAURIE: Let me ask a
18 question. For those that, if you can't answer
19 that's fine.

20 But Mr. Knight has a plane to catch.
21 And it's really inconvenient for him to have to be
22 here tomorrow.

23 Does anybody plan to cross-examine Mr.
24 Knight?

25 (Parties speaking simultaneously.)

1 MS. DENT: It's hard for -- I'm sorry,
2 it's hard for me to say because of the way the
3 alternatives testimony was filed.

4 MR. AJLOUNY: I'm sure the managers can
5 answer.

6 MS. DENT: Which parts -- can I just
7 ask, it's all filed as the testimony of Mr.
8 Walker.

9 Will we be able to ask Mr. Walker
10 questions about all aspects of the testimony then?

11 I'm sorry, I don't mean to be difficult.

12 HEARING OFFICER FAY: Yeah, let the
13 staff talk about that. I think they should be the
14 ones to answer.

15 (Pause.)

16 (Off-the-record discussions.)

17 MR. RICHINS: Do you have questions
18 specifically regarding land use?

19 MS. DENT: I don't -- I really don't
20 think so.

21 MR. RICHINS: Because that's probably
22 the answer.

23 MS. DENT: I mean we've already done
24 land use for the site, I certainly don't --

25 (Off the record.)

1 HEARING OFFICER FAY: Okay, the question
2 is does anybody need --

3 MS. DENT: I've indicated --

4 HEARING OFFICER FAY: -- Mr. Knight?

5 MS. DENT: -- that I don't have
6 questions about general plan, zoning or
7 agricultural land.

8 MS. WILLIS: Mr. Knight could stay
9 probably till early afternoon.

10 MS. DENT: Well, I really don't want to
11 have to ask him to do that. I mean I --

12 MS. WILLIS: Well, there's other
13 intervenors, too.

14 MR. WILLIAMS: I also would like to
15 accommodate Mr. Knight.

16 We managed to have the whole afternoon
17 of LSE without a single member of the CEC Staff
18 there. We relied on Mr. Mackin.

19 So, I think with several of the staff
20 here we can certainly spare Mr. Knight.

21 HEARING OFFICER FAY: Does anybody
22 absolutely need to cross-examine Mr. Knight that
23 they know of? I see no indication. So, we'll
24 leave it up to the staff.

25 But, Mr. Knight, you may be excused at

1 your discretion.

2 MR. KNIGHT: Thank you.

3 HEARING OFFICER FAY: All right. Thank
4 you, all. And we'll see you at 10:00 tomorrow
5 morning. We're adjourned.

6 (Whereupon, at 8:25 p.m., the hearing
7 was adjourned, to reconvene at 10:00
8 a.m., Wednesday, March 14, 2001, at this
9 same location.)

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CERTIFICATE OF REPORTER

I, JAMES RAMOS, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Hearing; that it was thereafter
transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
hearing, nor in any way interested in outcome of
said hearing.

IN WITNESS WHEREOF, I have hereunto set
my hand this 22nd day of March, 2001.

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